

April 28, 2004

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, April 28, 2004, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
RHONDA G. HENDERSON, Director of Planning
JENNIFER M. HOOVER, Director of Public Works
WILLIAM L. VAUGHN, Director of Community Development
DIANA M. STULTZ, Zoning Administrator
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER

PLEDGE OF ALLEGIANCE AND INVOCATION.

Chairman Ahrend called the meeting to order at 6:00 p.m.

Deputy County Administrator King led the Pledge of Allegiance, and Supervisor Cuevas gave the invocation.

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STUDENTS WELCOMED.

The Board welcomed students from Turner Ashby High School government classes.

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APPROVAL OF MINUTES.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the Minutes of the Regular Meeting held on April 14, 2004.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

Supervisor Kyger arranged to meet with Mr. Komara to visit Routes 33 and 257 to determine improvements.

In response to an inquiry from Supervisor Cuevas, Mr. Komara advised that he would look for a way to best approach improvements to a small section of road in Tenth Legion.

In response to an inquiry from Supervisor Breeden, Mr. Komara advised that his staff would be replacing the bridge at Island Ford Road and Route 340, and would check to see if a light at that location was warranted.

Administrator Paxton asked Mr. Komara to be prepared to discuss at the next meeting VDOT's recent letter concerning changes to County roads that are being entered into the State system.

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**APPROVAL OF
EMERGENCY COMMUNICATIONS/OPERATIONS CENTER PROJECT.**

Administrator Paxton reported that a letter was received from the City of Harrisonburg advising that the City Council approved a bid for the Harrisonburg-Rockingham Emergency Communications/Operations Center Project and requested that the Board of Supervisors take the same action.

Noting that centrally locating emergency communications in one location would be of benefit to both the City and the County, on motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved Nielson Builders' bid of \$1,083,341 and noted that the County's share, \$541,670, was included in the FY2004-005 County Budget.

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COUNTYWIDE RIVER ACTION PLAN

Administrator Paxton advised that he had attended a meeting on April 7, 2004, with Bill Patterson (NRCS), Mike Foreman (Forestry), Mark Huffman (VDOT), County staff, and members of the Bergton community to discuss ways in which the stream channels (Bennett's Run) could be improved to mitigate the problems with high water during storms. He noted that staff also discussed with Mr. Patterson and Mr. Foreman two other areas of the County, Naked Creek and Dry River, with similar issues that need to be addressed. He reported, subsequent to that meeting, Mr. Foreman sent a letter outlining his recommendations on actions that the County can take to help with this problem, specifically that this matter should be approached as a countywide endeavor.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized staff to issue an RFP so that an analysis of the Bennett's Run and Germany River section of the Shenandoah River can be conducted in an effort to develop a countywide River Action Plan.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated April 23, 2004, including information concerning the Harrisonburg-Rockingham Metropolitan Planning Organization (MPO), sales study for real estate, economic development, the Weed & Seed Program, and the Elkton Community Facility.

In regard to the MPO, He advised that a meeting would be held on May 6, 2004, from 4:00 to 7:00 p.m., at the Harrisonburg High School, to introduce the HRMPO and to

gather comments from citizens on regional transportation needs. He advised that the MPO Board approved the work program for FY 2005 and agreed to consider the County's request to add to that work program the extension of Stone Spring Road to U.S. Route 33. He noted that the MPO Board also authorized the request for payment of the local match for the MPO. He advised that the County's share is \$4,650.54 and that no funds were budgeted for this item for the current fiscal year.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved a supplemental appropriation to 001-08101 - Planning to make this payment, with funds to come from the reserve. The draft budget resolution was adjusted to include funds for the coming year.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board approved a supplemental appropriation to move \$125,000 of the community project funds from next fiscal year into this fiscal year for the community project in Elkton, subject to the County Attorney's working out an agreement which will allow County residents to use the facility. The funds are to come from the reserve.

Mr. Paxton reported that the County received a letter from the State Department of Taxation, advising the County that its current assessments are only 74.4% of fair market value. He pointed out that the County's reassessment would start in the fall, and noted that there should be significant growth in the taxable base for assessments in the County; however, this assessment base is used to determine the assessment of public service properties for the coming year, which could negatively impact the amount that the County receives this year.

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Brown's staff report dated April 23, 2004, including information concerning Public-Private Education Facilities and the Infrastructure Act of 2002 Model Procedures and the Elkton Community Center.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as

follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following model procedures to be used by the County in connection with the Public-Private Education Facilities and Infrastructure Act of 2002.

Public-Private Education Facilities and Infrastructure Act of 2002 Procedures

I. Introduction

The Public-Private Education Facilities and Infrastructure Act of 2002 (the “PPEA”)¹ grants responsible public entities such as the Board of Supervisors of Rockingham County (the “Board”) the authority to create public-private partnerships for the development of a wide range of projects for public use if the public entities determine there is a need for the project and that private involvement may provide the project to the public in a timely or cost-effective fashion.

The PPEA establishes requirements that the responsible public entity must adhere to when reviewing and approving proposals received pursuant to the PPEA. In addition, the PPEA specifies the criteria that must be used to select a proposal and the contents of the comprehensive agreement detailing the relationship between the responsible public entity and the private entity. The PPEA also requires that the governing body of the responsible public entity must adopt procedures that it will follow to receive and evaluate any proposal submitted to the public entity under the PPEA. The Board has adopted these procedures that it will follow to receive and evaluate proposals submitted under the PPEA.

II. Definitions

“*Affected local jurisdiction*” means any county, city or town in which all or a portion of a qualifying project is located.

“*Board*” means the Board of Supervisors of Rockingham County

“*Commission*” means the State Corporation Commission.

“*Comprehensive agreement*” means the comprehensive agreement between the operator and the responsible public entity required by § 56-575.9.

“*Lease payment*” means any form of payment, including a land lease, by a public entity to the operator for the use of a qualifying project.

“*Material default*” means any default by the operator in the performance of its duties under subsection E of § 56-575.8 that jeopardizes adequate service to the public from a qualifying project.

“*Operator*” means the private or other non-governmental entity that is responsible for any and all of the stages of a qualifying project, or a portion thereof, including (i) acquisition, (ii) design, (iii) construction, (iv) improvement, (v) renovation, (vi) expansion, (vii) equipping, (viii) maintenance and (ix) operation.

¹ Chapter 571, 2002 Va. Acts; Va. Code §56-575.1 through § 56-575.16.

“*Private entity*” means any natural person, corporation, limited liability company, partnership, joint venture or other private business entity.

“*Public entity*” means the Commonwealth and any agency or authority thereof, any county, city or town and any other political subdivision of the Commonwealth or any regional entity that serves a public purpose.

“*Qualifying project*” means (i) any education facility, including, but not limited to a school building, any functionally related and subordinate facility and land to a school building (including any stadium or other facility primarily used for school events), and any depreciable property provided for use in a school facility that is operated as part of the public school system or as an institution of higher education; (ii) any building or facility for principal use by any public entity; (iii) any improvements, together with equipment, necessary to enhance public safety and security of buildings to be principally used by a public entity; (iv) utility and telecommunications and other communications infrastructure; or (v) a recreational facility.

“*Responsible public entity*” means a public entity that has the power to acquire, design, construct, improve, renovate, expand, equip, maintain, or operate the applicable qualifying project.

“*Revenues*” means user fees, lease payments, or other service payments generated by a qualifying project.

“*Service contract*” means a contract entered into between a public entity and the operator pursuant to § 56-575.5.

“*Service payments*” means payments to the operator of a qualifying project pursuant to a service contract.

“*State*” means the Commonwealth of Virginia.

“*User fees*” mean the rates, fees or other charges imposed by the operator of a qualifying project for use of all or a portion of such qualifying project pursuant to the comprehensive agreement pursuant to § 56-575.9.

III. General Provisions

A. Proposal Submission

A proposal may be either solicited by the Board or delivered by a private entity on an unsolicited basis. Proposers shall be required to follow a two-part proposal submission process consisting of an initial conceptual phase and a detailed phase. The initial phase of the proposal should contain specified information on proposer qualifications and experience, project characteristics, project financing, anticipated public support or opposition, or both, and project benefit and compatibility. The detailed proposal should contain specified deliverables.

Proposals should be prepared simply and economically, providing a concise description of the proposer’s capabilities to complete the proposed qualifying project and the benefits to be derived from the project by the Board. Project benefits to be considered are those occurring during the construction, renovation, expansion or improvement phase and during the life cycle of the project. Proposals also should include a comprehensive scope of work and a financial plan for the project, containing enough detail to allow an analysis by the Board of the financial feasibility of the proposed project. The Board may establish criteria by which the proposer may provide clarification to the submission.

B. Affected Local Jurisdictions

Any private entity requesting approval from or submitting a conceptual or detailed proposal to the Board must provide each affected local jurisdiction with a copy of the private entity's request or proposal by certified mail, express delivery or hand delivery. Affected local jurisdictions that are not responsible public entities under the proposed qualifying project shall have 60 days from the receipt of the request or proposal to submit written comments to the responsible public entity and to indicate whether the proposed qualifying project is compatible with the (i) local comprehensive plan, (ii) local infrastructure development plans, or (iii) capital improvements budget or other government spending plan. Comments received within the 60-day period shall be given consideration by the Board, and no negative inference shall be drawn from the absence of comment by an affected local jurisdiction.

C. Proposal Review Fee

The Board may seek the advice of internal staff or outside advisors or consultants with relevant experience in determining whether to enter into an agreement with the private entity. No fee will be charged by the Board to process, review or evaluate any solicited proposal submitted under the PPEA. The Board may charge a fee to the private entity to cover the costs of processing, reviewing, and evaluating any unsolicited proposal or competing unsolicited proposal submitted under the PPEA, including a fee to cover the costs of outside attorneys, consultants, and financial advisors. Any fee charged for such review of a proposal will be reasonable in comparison to the level of expertise required to review the proposal and will not be greater than the direct costs associated with evaluating the proposed qualifying project. "Direct costs" may include (i) the cost of staff time required to process, evaluate, review and respond to the proposal and (ii) the out-of-pocket costs of attorneys, consultants and financial advisors.

The proposal fee may cover all or part of the initial review process. For example, the Board may require a proposal fee in an amount sufficient to cover all anticipated direct costs associated with evaluating the proposal, or it may require a smaller initial processing fee with an additional proposal fee to be charged should the project proceed beyond the initial review.

The Board has established a fee schedule for the cost of the proposal review. The current fee schedule is set forth on Exhibit A to these procedures. If the cost of reviewing the proposal exceeds the initially established proposal fee, the Board may assess the proposer the additional costs deemed necessary to evaluate the proposal.

For rejected proposals, the Board will establish a schedule for refunding any portion of fees paid in excess of its direct costs associated with evaluating the proposal. If the cost of reviewing the proposal is less than the initially established proposal fee, the Board shall refund to the proposer the excess fee.

D. Freedom of Information Act

Generally, proposal documents submitted by private entities are subject to the Virginia Freedom of Information Act ("FOIA").² In accordance with § 2.2-3705 (A) (56) of FOIA, such documents are releasable if requested, except to the extent that they relate to (i) confidential proprietary information submitted to the Board under a promise of confidentiality or (ii) memoranda, working papers or other records related to proposals if making public such records would adversely affect the financial interest of the Board or private entity or the bargaining position of either party.

² Virginia Code § 2.2-3700 et seq.

Subsection 56-575.4 G of the PPEA imposes an obligation on the Board and any affected local jurisdiction to protect confidential proprietary information submitted by a private entity or operator. When the private entity requests that the Board not disclose information, the private entity must (i) invoke the exclusion when the data or materials are submitted to the Board or before such submission, (ii) identify the data and materials for which protection from disclosure is sought, and (iii) state why the exclusion from disclosure is necessary. A private entity may request and receive a determination from the Board as to the anticipated scope of protection prior to submitting the proposal. The Board is authorized and obligated to protect only confidential proprietary information, and thus will not protect any portion of a proposal from disclosure if the entire proposal has been designated confidential by the proposer without reasonably differentiating between the proprietary and non-proprietary information contained therein.

Upon receipt of a request that designated portions of a proposal be protected from disclosure as confidential and proprietary, the Board shall determine whether such protection is appropriate under applicable law and, if appropriate, the scope of such appropriate protection, and shall communicate its determination to the proposer. If the determination regarding protection or the scope thereof differs from the proposer's request, then the Board shall accord the proposer ten (10) business days to clarify and justify its request. Upon a final determination by the Board to accord less protection than requested by the proposer, the proposer will be accorded an opportunity to withdraw its proposal. A proposal so withdrawn will be treated in the same manner as a proposal not accepted for publication and conceptual-phase consideration as provided in section V. A. 1 below.

E. Use of Public Funds

Virginia constitutional and statutory requirements as they apply to appropriation and expenditure of public funds apply to any comprehensive agreement entered into under the PPEA. Accordingly, the processes and procedural requirements associated with the expenditure or obligation of public funds are hereby incorporated into these procedures.

F. Applicability of Other Laws

Nothing in the PPEA shall affect the duty of the Board to comply with all other applicable laws not in conflict with the PPEA. The applicability of the Virginia Public Procurement Act (the "VPPA") is as set forth in the PPEA.

IV. Solicited Proposals

The Board may issue Requests for Proposals (RFPs), inviting proposals from private entities to acquire, construct, improve, renovate, expand, maintain or operate qualifying projects or to design or equip projects so constructed, improved renovated, expanded, maintained or operated. The Board may use a two-part proposal process consisting of an initial conceptual phase and a detailed phase. An RFP may invite proposers to submit proposals on individual projects identified by the Board. In such a case the Board shall set forth in the RFP the format and supporting information that is required to be submitted, consistent with the provisions of the PPEA.

The RFP shall specify, but not necessarily be limited to, information and documents that must accompany each proposal and the factors that will be used in evaluating the submitted proposals. The RFP shall be posted in such public areas as are normally used for posting of the Board's notices, including the Board's website. Notices shall also be published in a newspaper or other publications of general circulation and advertised in *Virginia Business Opportunities*. The RFP shall also contain or incorporate by reference other applicable terms and conditions, including any unique capabilities or

qualifications that will be required of the private entities submitting proposals. Pre-proposal conferences may be held as deemed appropriate by the Board.

V. Unsolicited Proposals

The PPEA permits the Board to receive, evaluate and select for negotiations unsolicited proposals from private entities to acquire, construct, improve, renovate, expand, maintain, or operate a qualifying project or to design or equip projects so constructed, improved, renovated, expanded, maintained or operated.

The Board may publicize its needs and may encourage interested parties to submit proposals subject to the terms and conditions of the PPEA. When such proposals are received without issuance of an REP, the proposal shall be treated as an unsolicited proposal.

A. Decision to Accept and Consider Unsolicited Proposal; Notice

1. Upon receipt of any unsolicited proposal or group of proposals and payment of any required fee by the proposer or proposers, the Board shall determine whether to accept the unsolicited proposal for publication and conceptual-phase consideration. If the Board determines not to accept the proposal and proceed to publication and conceptual-phase consideration, it shall return the proposal, together with accompanying documentation, to the proposer.

2. If the Board chooses to accept an unsolicited proposal for conceptual-phase consideration, it shall post a notice in a public area regularly used by the Board for posting of public notices for a period of not less than 45 days. The Board shall also publish the same notice for a period of not less than 45 days in one or more newspapers or periodicals of general circulation in the jurisdiction to notify any parties that may be interested in submitting competing unsolicited proposals. In addition, the notice shall also be advertised in *Virginia Business Opportunities*. The notice shall state that the Board (i) has received and accepted an unsolicited proposal under the PPEA, (ii) intends to evaluate the proposal, (iii) may negotiate a comprehensive agreement with the proposer based on the proposal, and (iv) will accept for simultaneous consideration any competing proposals that comply with the procedures adopted by the Board and the PPEA. The notice also shall summarize the proposed qualifying project or projects, and identify their proposed locations. Copies of unsolicited proposals shall be available upon request, subject to the provisions of FOIA and § 56-575.4 G of the PPEA.

B. Initial Review by the Board at the Conceptual Stage

1. Only proposals complying with the requirements of the PPEA that contain sufficient information for a meaningful evaluation and that are provided in an appropriate format shall be considered by the Board for further review at the conceptual stage. Formatting suggestions for proposals at the conceptual stage are found at Section V. A. 1.

2. The Board shall determine at this initial stage of review whether it will proceed using:

- a. Standard procurement procedures consistent with the VPPA; or
- b. Procedures developed by the Board that are consistent with procurement of other than professional services through “competitive negotiation” as the term is defined in § 2.2-4301 of the Code of Virginia. The Board may proceed using such procedures only if it makes a written determination that doing so is likely to be advantageous to the Board and the public based upon either (i) the probable scope, complexity or urgency of need,

or (ii) the risk sharing, added value, increase in funding or economic benefit from the project would otherwise not be available.

3. After reviewing the original proposal and any competing proposals submitted during the notice period, the Board shall determine:

- a. not to proceed further with any proposal,
- b. to proceed to the detailed phase of review with the original proposal,
- c. to proceed to the detailed phase with a competing proposal, or
- d. to proceed to the detailed phase with multiple proposals.

In the event that more than one proposal will be considered in the detailed phase of review, the Board shall consider whether the unsuccessful proposer may be reimbursed for costs incurred in the detailed phase of review, and such reasonable costs may be assessed to the successful proposer in the comprehensive agreement.

VI. Proposal Preparation and Submission

A. Format for Submissions at Conceptual Stage

Proposals at the conceptual stage shall contain information in the following areas: (i) qualifications and experience, (ii) project characteristics, (iii) project financing, (iv) anticipated public support or opposition, or both, (v) project benefit and compatibility and (vi) any additional information as the Board may reasonably request to comply with the requirements of the PPEA. Suggestions for formatting information to be included in proposals at this stage include:

1. Qualification and Experience

- a. Identify the legal structure of the firm or consortium of firms making the proposal. Identify the organizational structure for the project, the management approach and how each partner and major subcontractor in the structure fits into the overall team.
- b. Describe the experience of the firm or consortium of firms making the proposal and the key principals involved in the proposed project including experience with projects of comparable size and complexity. Describe the length of time in business, business experience, public sector experience and other engagements of the firm or consortium of firms. Include the identity of any firms that will provide design, construction and completion guarantees and warranties and a description of such guarantees and warranties.
- c. Provide the names, addresses, and telephone numbers of persons within the firm or consortium of firms who may be contacted for further information.
- d. Provide a current or most recently audited financial statement of the firm or firms and each partner with an equity interest of twenty percent or greater.
- e. Identify any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to The Virginia State and Local

Government Conflict of Interest Act, Chapter 31 (§.2-3100 et seq.) of Title 2.2.

2. Project Characteristics

- a. Provide a description of the project, including the conceptual design. Describe the proposed project in sufficient detail so that type and intent of the project, the location, and the communities that may be affected are clearly identified.
- b. Identify and fully describe any work to be performed by the Board.
- c. Include a list of all federal, state and local permits and approvals required for the project and a schedule for obtaining such permits and approvals.
- d. Identify any anticipated adverse social, economic and environmental impacts of the project. Specify the strategies or actions to mitigate known impacts of the project.
- e. Identify the projected positive social, economic and environmental impacts of the project.
- f. Identify the proposed schedule for the work on the project, including the estimated time for completion.
- g. Propose allocation of risk and liability for work completed beyond the agreement's completion date, and assurances for timely completion of the project.
- h. State assumptions related to ownership, legal liability, law enforcement and operation of the project and the existence of any restrictions on the Board's use of the project.
- i. Provide information relative to phased or partial openings of the proposed project prior to completion of the entire work.

3. Project Financing

- a. Provide a preliminary estimate and estimating methodology of the cost of the work by phase, segment, or both.
- b. Submit a plan for the development, financing and operation of the project showing the anticipated schedule on which funds will be required. Describe the anticipated costs of and proposed sources and uses for such funds.
- c. Include a list and discussion of assumptions underlying all major elements of the plan.
- d. Identify the proposed risk factors and methods for dealing with these factors.
- e. Identify any local, state or federal resources that the proposer contemplates requesting for the project. Describe the total commitment, if any, expected from governmental sources and the timing of any anticipated commitment.

4. Project Benefit and Compatibility

- a. Identify who will benefit from the project, how they will benefit and how the project will benefit the overall community, region, or state.
- b. Identify any anticipated public support or opposition, as well as any anticipated government support or opposition, for the project.
- c. Explain the strategy and plans that will be carried out to involve and inform the general public, business community, and governmental agencies in areas affected by the project.
- d. Describe the anticipated significant benefits to the community, region or state including anticipated benefits to the economic condition of the Board.
- e. Compatibility with the local comprehensive plan, local infrastructure development plans, the capital improvements budget or other government spending plan.

B. Format for Submissions at Detailed Stage

If the Board decides to proceed to the detailed phase of review with one or more proposals, the following information shall be provided by the private entity unless waived by the Board:

1. A topographical map (1:2,000 or other appropriate scale) depicting the location of the proposed project;
2. A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of the plans of the proposer to accommodate such crossings;
3. A statement and strategy setting out the plans for securing all necessary property. The statement must include the names and addresses, if known, of the current owners of the subject property as well as a list of any property the proposer intends to request the Board to condemn;
4. A detailed listing of all firms that will provide specific design, construction and completion guarantees and warranties, and a brief description of such guarantees and warranties;
5. A total life-cycle cost specifying methodology and assumptions of the project or projects and the proposed project start date. Include anticipated commitment of all parties; equity, debt, and other financing mechanisms; and a schedule of project revenues and project costs. The life-cycle cost analysis should include, but not be limited to, a detailed analysis of the projected return, rate of return, or both, expected useful life of facility and estimated annual operating expenses.
6. A detailed discussion of assumptions about user fees or rates, and usage of the projects.
7. Identification of any known government support or opposition, or general public support or opposition for the project. Government or public support should be demonstrated through resolution of official bodies, minutes of meetings, letters, or other official communications.

8. Demonstration of consistency with appropriate local comprehensive or infrastructure development plans or indication of the steps required for acceptance into such plans.

9. Explanation of how the proposed project would impact local development plans of each affected local jurisdiction.

10. Identification of any known conflicts of interest or other disabilities that may impact the Board's consideration of the proposal, including the identification of any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to The Virginia State and Local Government Conflict of Interest Act, Chapter 31 (§.2-3100 et seq.) of Title 2.2.

11. Additional material and information as the Board may reasonably request.

VII. Proposal Evaluation and Selection Criteria

The following items shall be considered in the evaluation and selection of PPEA proposals.

A. Qualifications and Experience

Factors to be considered in either phase of the Board's review to determine whether the proposer possesses the requisite qualifications and experience shall include:

1. Experience with similar projects;
2. Demonstration of ability to perform work;
3. Leadership structure;
4. Project manager's experience;
5. Management approach;
6. Financial condition; and
7. Project ownership.

B. Project Characteristics

Factors to be considered in determining the project characteristics include:

1. Project definition;
2. Proposed project schedule;
3. Operation of the project;
4. Technology; technical feasibility;
5. Conformity to laws, regulations, and standards;
6. Environmental impacts;
7. Condemnation impacts;

8. State and local permits; and
9. Maintenance of the project.

C. Project Financing

Factors to be considered in determining whether the proposed project financing allows adequate access to the necessary capital to finance the project include:

1. Cost and cost benefit to the Board;
2. Financing and the impact on the debt or debt burden of the Board;
3. Financial plan;
4. Estimated cost; and
5. Life-cycle cost analysis.

D. Project Benefit and Compatibility

Factors to be considered in determining the proposed project's compatibility with the appropriate local or regional comprehensive or development plans include:

1. Community benefits;
2. Community support or opposition, or both;
3. Public involvement strategy;
4. Compatibility with existing and planned facilities; and
5. Compatibility with local, regional, and state economic development efforts.

VIII. Comprehensive Agreement

Prior to acquiring, designing, constructing, improving, renovating, expanding, equipping, maintaining, or operating the qualifying project, the selected proposer shall enter into a comprehensive agreement with the Board. The Board may designate a working group to be responsible for negotiating the comprehensive agreement. Each comprehensive agreement shall define the rights and obligations of the Board and the selected proposer with regard to the project.

The terms of the comprehensive agreement shall include but not be limited to:

1. The delivery of maintenance, performance and payment bonds or letters of credit in connection with any acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project;
2. The review of plans and specifications for the qualifying project by the Board;
3. The rights of the Board to inspect the qualifying project to ensure compliance with the comprehensive agreement;
4. The maintenance of a policy or policies of liability insurance or self-insurance reasonably sufficient to insure coverage of the project and the tort liability to the public and employees and to enable the continued operation of the qualifying project;

5. The monitoring of the practices of the operator by the Board to ensure proper maintenance;

6. The terms under which the operator will reimburse the Board for services provided;

7. The policy and procedures that will govern the rights and responsibilities of the Board and the operator in the event that the comprehensive agreement is terminated or there is a material default by the operator including the conditions governing assumption of the duties and responsibilities of the operator by the Board and the transfer or purchase of property or other interests of the operator by the Board;

8. The terms under which the operator will file appropriate financial statements on a periodic basis.

9. The mechanism by which user fees, lease payments, or service payments, if any, may be established from time to time upon agreement of the parties. Any payments or fees shall be set at a level that are the same for persons using the facility under like conditions and that will not materially discourage use for the qualifying project;

a. A copy of any service contract shall be filed with the Board.

b. A schedule of the current user fees or lease payments shall be made available by the operator to any member of the public upon request.

c. Classifications according to reasonable categories for assessment of user fees may be made.

10. The terms and conditions under which the Board may contribute financial resources, if any, for the qualifying project; and

11. Other requirements of the PPEA.

Any changes in the terms of the comprehensive agreement as may be agreed upon by the parties from time to time shall be added to the comprehensive agreement by written amendment.

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. King's staff report dated April 23, 2004, including information concerning Landfill surplus property and the Regional Water Resources Policy Committee.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board declared a John Deere 544A, rubber-tired loader, Serial Number 190254T, as surplus; authorized staff to dispose of the loader and authorized the purchase of a used truck for \$2,800, for use at the Landfill.

FINANCE DIRECTOR'S STAFF REPORT.

Mr. Allmendinger did not have a written report.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Ms. Hoover's staff report dated April 23, 2004, including information concerning progress on the sewer project for Route 11 North; Lilly Gardens; Countryside water system; Penn Laird Drive and Water Tower Road sewer; Lakewood/Massanetta Springs pump station, Spotswood High School waterline extension, Wal-Mart water and sewer project, Three Springs back-up power, and the Grottoes Container Site.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated April 7, 2004, including information concerning the Kenneth Klamut rezoning request (recommended it be sent back to the Planning Commission for consideration), McGaheysville Plan, projects underway, tabled requests, and upcoming requests.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board agreed to send back to the Planning Commission for consideration RZ04-5, rezoning request of Kenneth M. Klamut, c/o Ray Nicely, 3231 Peoples Drive, Harrisonburg, VA, *with the application revised from A-1 to R-3, Conditional to A-1 to A-2, Conditional*) on tax parcel 123 (A) 68A, and located south of Oakwood Drive (Route 704) approximately 200 feet west of Foxcroft Drive (Route 1061) in Election District #4.

ROCKINGHAM COUNTY COMPREHENSIVE PLAN FOR 2020 AND BEYOND.

Mr. Vaughn presented the changes to the proposed Comprehensive Plan requested by the Board at its February

18, 2004, work session. He asked if Board members had any questions regarding these changes.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the Rockingham County Comprehensive Plan for 2020 and Beyond, as amended by the following changes. The Board requested that the County Administrator draft a letter to the Advisory Committee members who worked on the draft Comprehensive Plan, expressing the Board's appreciation for their many months of work on the draft. A copy of the Plan as adopted is attached to and made a part of the minutes of this meeting.

Projects

Environmental/Historic Projects

- 1.1.8. Pursue better mapping of floodplains in the County and re-examine floodplain regulations to ensure safety from flood damage.
- 1.2.2. Explore the feasibility of the County performing its own source water assessments for the public water systems of its Towns and sanitary systems that use wells, with priority in karst areas; include the delineation of well recharge areas and an inventory of potential contaminant sources within these areas.
- 1.2.3. Continue to use the Shenandoah Summit water supply planning project as a forum for regional efforts regarding water supply, quality and quantity.
- 2.2.1. Compile a scenic resources inventory.
- 2.2.2. Based on a scenic resources inventory, consider designation of appropriate roads as Virginia Byways.
- 2.2.4. Establish development design standards.

Agriculture Projects

- 3.2.3. Develop a strategic plan for economic development to locate new employment in areas identified for industrial and commercial expansion.
- 3.2.4. Define and implement a long-term phasing plan for expansion of public utilities into designated future community development areas.

Economic Projects

- 4.1.1. Develop a list of employment sectors that would best meet County needs.

- 5.1.1. Identify and assess the value of historical, recreational and natural environmental assets to the tourism economy.
- 5.1.4. Explore ways to direct visitors of the National Park to other attractions in the County.

5.1.7. Re-evaluate the appropriateness of the location of the existing Harrisonburg-Rockingham Convention and Visitors Bureau; consider other locations and possible satellite facilities.

- 5.1.5. Work with area tourist attractions, such as Massanutten Resort, on tourism promotion.

Land Use Projects

- 6.2.2. Develop phased growth areas around towns.
- 6.2.3. Consult between localities when development plans will have impacts across boundaries.
- 6.3.4. Develop cooperative agreements with Towns to provide services in areas mutually designated for development.
- 7.2.2. Investigate the feasibility of septic system and well inspections with fees.

Public Facilities Projects

- 8.4.3. Seek immunity from future City annexations; establish a collaborative process with the City to achieve mutual benefits.
- 8.4.4. Evaluate the revenue implications of Town annexations.
- 8.4.5. Pursue cooperative financial agreements with the Towns.
- 8.1.6. Investigate the feasibility of providing funding to assist towns with public utility expansion.
- 9.1.1. Evaluate issues related to response time, service areas and operating standards to ensure high levels of service.
- 9.2.1. Evaluate the cost, level of service and other impacts on the community of volunteerism actions, if the proportion of volunteers declines.
- 9.2.2. Explore, with volunteer companies, ways to minimize time required for fundraising.
- 9.2.3. Investigate the feasibility of additional incentives to encourage fire and rescue volunteerism.
- 9.2.4. Explore an incentive program for employers willing to grant leave time to volunteers.
- 14.6.1. Conduct a statistically valid public opinion survey every five years to measure the perceived quality of life.

Transportation Projects

- 10.3.1. Prepare corridor development plans as elements of the Comprehensive Plan for major roads so as to foster a parallel road network to provide alternative routes to the arterial and primary road system to reduce the number, and control the location, of entrances; priorities include:
 - Route 33
 - Access to Dayton
 - Port Republic Road
 - Route 11
 - Route 42
 - Mayland Road
 - Links between Broadway and Timberville
- 11.1.3 Develop a greenway plan identifying priority trails, connections, opportunities, and constraints.

Programs

Environmental/Historic Programs

- 1.1.2. Continue to participate in TMDL (total maximum daily [pollutant] load) water quality studies for impaired streams.
- 1.1.3. Seek continued and expanded funding for agricultural BMPs.
- 1.1.4. Continue to follow and update the current Board of Supervisors' position in the Interim Nutrient Cap Strategy for the Shenandoah and Potomac River Basins.
- 1.2.1. Develop wellhead protection programs for public water recharge areas.
- 1.2.5. Expand public education programs about water resources.
- 1.4.1. Develop public education programs about resource consumption.
- 1.5.1. Evaluate, organize and share information about regional air quality.
- 1.4.5 Establish pilot program to expand recycling efforts.
- 12.1.1. Consider establishing a historic resources commission to provide comments to the Planning Commission and Board of Supervisors on the impacts of development proposals on historic resources and to develop historic preservation programs for the County.

Agriculture Programs

- 3.1.2. Establish a Purchase of Development Rights program (PDR).
- 3.1.4. Monitor the effectiveness of development regulations in limiting scattered development.
- 3.1.5. Increase awareness of farmers and rural residents on mutual impacts.

- 3.1.7. Promote innovation, expansion and enhancement of agriculture and agricultural support businesses and markets through economic development strategies.

Economic Program

- 5.1.6. Promote the efforts of organizations, such as the Harrisonburg-Rockingham Convention and Visitors Bureau and the Shenandoah Valley Partnership, by providing assistance with planning, funding and coordination of its program initiatives. Coordinate local efforts with the Virginia Economic Development Partnership.

Land Use Programs

- 6.1.1. Monitor land consumption rates to determine if the supply of land is adequate.
- 6.1.2. Develop detailed phasing plans for community development areas and adopt them conceptually in the Comprehensive Plan.
- 6.1.3. Establish a process in the Plan for preparing detailed area plans for community development areas and for coordinating planning efforts with Towns.
- 6.1.4. Use the capital improvements plan and zoning to promote compact, efficient development patterns.
- 6.2.1. Work closely with the Rockingham Municipal League to pursue mutual benefits.
- 6.2.6. Continue the process of collaborating with the City to jointly plan areas on all sides of the City limits to the mutual benefit of both localities.
- 6.3.5. Monitor patterns of housing development and amend the Zoning and Subdivision Ordinances, if necessary, to restrict further unplanned development.
- 7.1.4. Continue to participate with the Harrisonburg Redevelopment Housing Authority to encourage home ownership by providing affordable housing for County residents.
- 7.2.1. Distribute information about septic system maintenance.

Transportation Programs

- 10.5.1. Continue to conduct joint annual review between the County and VDOT to evaluate traffic counts and patterns.
- 10.5.3. Continue to participate in the Harrisonburg-Rockingham Metropolitan Planning Organization.
- 10.5.5. Maximize, when fiscally possible, the participation in the state revenue sharing program.

Regulations

Environmental/Historic Regulations

- 1.1.1. Consider requiring nutrient management plans for all intensive agricultural enterprises, which are now required only for poultry.
- 1.1.7. Limit impervious surfaces through lot coverage ratios; amend the Zoning and Subdivision Ordinances to accomplish this.
- 1.3.1. Consider amending the Zoning Ordinance to prohibit development in delineated wetland areas; require delineation as part of development applications and focus on areas where most wetlands are found.
- 1.3.2. Consider amending the Zoning Ordinance to limit development, clearing or grading on steep slopes.
- 1.3.3. Incorporate BMPs into land development regulations in both the Zoning and Subdivision Ordinances.
- 2.1.4. Consider amending the Zoning Ordinance to include performance standards for development in mountainous and wooded areas that limit clearing and grading to ensure public safety and efficient delivery of public services.
- 2.1.6. Review special uses permitted in the A-1 and A-2 zones to remove those uses that are incompatible with rural character, and retain uses that support farm income.
- 2.2.3. Evaluate the current sign and lighting regulations in the Zoning Ordinance; prepare amendments as needed.

Agriculture Regulations

- 3.1.1. Strengthen Zoning Regulations:
 - Consider providing incentives for clustering rural lots on new internal roads rather than stripping the existing public roads, and
 - Identify agriculturally zoned areas for appropriate uses.

Land Use Regulations

- 6.1.5. Consider amending the Zoning Ordinance to allow new urban residential, commercial and mixed use districts to incorporate pedestrian- friendly, human-scale layouts for streets, lots and uses.
- 6.3.2. Require all dwellings in designated areas to connect to available facilities in residential districts but provide for hardship situations for existing dwellings; amend the Zoning Ordinance and public utility policies.
- 6.3.3. Allow higher residential densities, where suitable as defined in the Comprehensive Plan, in mixed use centers with traditional design elements.
- 7.1.1. Promote development of below-median-value-housing through reduced setbacks and narrower lots for single-family units and by promoting multi-family and mixed-use developments.
- 7.1.2. Periodically review the Zoning Ordinance to ensure that manufactured home parks have infrastructure equal in quality to other single family development.

- 7.1.3. Explore incentives to developers to include affordable units in their developments.
- 7.2.3. Amend County regulations, in conjunction with the Health Department, to allow alternative waste disposal for existing lots.
- 7.2.6. Evaluate the possibilities for clustered rural development using community package treatment plants; amend the Zoning Ordinance to provide standards.

Public Facilities Regulations

- 9.1.2. Encourage expanded use of dry hydrants and other innovations; amend the Zoning and Subdivision Ordinances to require these.

Transportation Regulations

- 10.1.1. Adopt standards for rezonings that include road and bridge capacities as criteria for approval.
- 10.3.4. Require minimum separation of entrances in accord with the roadway classification and the adopted corridor plan.
- 10.3.6. Design local streets to give priority to both vehicles and pedestrians.
- 10.5.8. Require identification of initial and long-term transportation impacts associated with proposed developments; amend the Zoning Ordinance to require traffic studies as part of rezoning applications.
- 11.1.2. Require pedestrian access and circulation in development areas.

SUBDIVISION ORDINANCE.

There was unanimous agreement to hold a Work Session on the draft Subdivision Ordinance on Wednesday, May 12, at 1:30 p.m.

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ADOPTION OF COUNTY OF ROCKINGHAM, VIRGINIA, BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2004, PROPOSED EXPENDITURES AND REVENUES; SETTING OF PROPERTY TAX RATES FOR CALENDAR YEAR 2004 AND THE E911 TAX RATE FOR FY 2004-05.

Supervisor Kyger made the following statement:

1. TRANSACTION INVOLVED: Consideration and adoption of a budget, related matters such as tax rates, and other issues concerning schools.

NATURE OF PERSONAL INTEREST IN THE TRANSACTION: I am an employee of the Rockingham County School Board.

Therefore, I am affected by this Board's decisions concerning school funding and similar issues.

3. As a teacher, I am a member of an occupation the members of which are affected by the transaction specified in paragraph 1.

4. I am able to participate in the transactions fairly, objectively, and in the public interest.

FINANCE COMMITTEE RECOMMENDATIONS.

Supervisor Cuevas presented the following Finance Committee recommendations that are included in the proposed FY2004-05 Budget.

001-02105-000-3302-000 Maintenance Service Contracts + 1,202

As requested by Brenda Spencer, for an additional Copier / fax machine for the 2nd floor of the Juvenile & Domestic Relations Court and Court Service Unit.

001-03202-000-5621-000 Grottoes Vol. Fire Co. + 7,981

As requested by Grottoes Volunteer Fire Department for ALS (advanced life support).

001-08101-000-3109-000 Other Professional Services + 4,700

The Planning Department budget has been adjusted by \$ 4,700 for the MPO (Metropolitan Planning Organization) based upon the approved work.

001-09103-000-5654-000 Convention/Visitors Bureau + 25,000

The contribution to the Convention/Visitors Bureau has been increased from \$ 70,000 to \$ 95,000 for capital improvements and additional marketing expenses.

001-09103-000-5673-000 CART + 5,000

The contribution to CART (Community Association for Rural Transportation) is increased from \$ 25,000 to \$ 30,000 to help provide the "local match" in order to obtain VDRPT public transportation grants and Virginia Health Care Foundation grants.

# 101-09401-000-8339-000	Community Projects	- 125,000
# 101-05101-2001	Transfer from General Fund	- 125,000
# 001-09301-000-9511-000	Transfer to Capital Projects Fund	- 125,000
# 001-05201-0100	Fund Reserve	- 125,000

This reduction of \$ 125,000 in the Capital Projects Fund in FY 2005 was addressed in the County Administrator's staff report.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as

follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board adopted the Fiscal Year 2004-05 Budget as follows.

COUNTY OF ROCKINGHAM, VIRGINIA
BUDGET FOR THE FISCAL YEAR COMMENCING JULY 1, 2004
EXPENDITURES AND REVENUES

EXPENDITURES

	ADOPTED FY 2004-05
GENERAL FUND	
General Government	\$ 4,531,146
Judicial Administration	2,590,033
Public Safety	13,405,025
Public Works	1,373,489
Human Services	1,191,724
Parks, Recreation & Cultural	1,671,717
Community Development	2,281,586
Contributions	454,528
Contingency	500,000
Other Expenses	81,000
Transfers to Other Funds	39,066,764
Debt Service - County	572,231
Debt Service - Schools	4,976,309
TOTAL - GENERAL FUND	<u>\$72,695,552</u>
Capital Projects Fund	\$ 4,986,000
School Capital Projects Fund	11,000,000
School Fund	85,584,565
School Cafeteria Fund	3,828,100
School Textbook Fund	896,433
Massanutten Technical Center Fund	4,487,330
E911 Communications Fund	626,737
Asset Forfeiture Fund	80,000
Harrisonburg-Rockingham Social Services District	14,491,010
Central Garage Fund	28,000
Utilities Fund	6,320,586
Lilly Subdivision Sanitary District	24,065
Smith Creek Water & Wastewater Authority	814,150
Countryside Sanitary District	239,710
Solid Waste Fund	4,510,220
Human Resources Rental Fund	233,672
TOTAL - EXPENDITURES	<u>\$210,846,130</u>

REVENUES

	PROPOSED FY 2004-05
GENERAL FUND	
General Property Taxes	\$43,675,000
Other Local Taxes	7,068,000
Other Local Revenue	5,764,629
State Revenue	13,779,053
Federal Revenue	983,907
Balance Carried Forward	1,424,963
TOTAL - GENERAL FUND	<u>\$72,695,552</u>
Capital Projects Fund	\$ 4,986,000
School Capital Projects Fund	11,000,000
School Fund	85,584,565
School Cafeteria Fund	3,828,100
School Textbook Fund	896,433
Massanutten Technical Center	4,487,330
E911 Communications Fund	626,737

Asset Forfeiture Fund	80,000
Harrisonburg-Rockingham Social Services District	14,491,010
Central Stores Fund	28,000
Utilities Fund	6,320,586
Lilly Subdivision Sanitary District	24,065
Smith Creek Water & Wastewater Authority	814,150
Countryside Sanitary District	239,710
Solid Waste Fund	4,510,220
Human Resources Rental Fund	233,672
TOTAL – REVENUES	<u>\$210,846,130</u>

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND – AYE; BREEDEN – AYE; CUEVAS – AYE; FLOYD – AYE; KYGER – AYE; the Board set the rate of \$1.50 per telephone access line for the Enhanced 911 tax for the next fiscal year, starting July 1, 2004, and established the following rates for property taxes for calendar year 2005:

<u>TAX RATES:</u>	
<u>Classification of Tax</u>	2005
Real Estate	\$.71
Personal Property	2.80
Recreational Vehicles	2.80
Machinery & Tools	2.55
Merchants Capital	.87
Farm Machinery	.44
Manufactured Homes	.71

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PUBLIC HEARING – SPECIAL USE PERMITS.

At 7:00 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the following special use permit applications.

S04-12, request of Sunny Slope LLC, 1847 Sunny Slope Lane, Harrisonburg, for commercial storage for two customers in an existing poultry house on property located on Sunny Slope Lane (private road) on the west side of Erickson Avenue (Route 726) approximately ½ mile west of Garbers Church Road (Route 910) in Central and Ashby Magisterial Districts, Election District #4, zoned A-2. Tax Map #107-(A)-201 & 107-(A)-205.

The applicant was present to answer questions.

Alan Good asked what the property was to be used for.

Mr. Kyger said it was his understanding that Whitesel Brothers would store farm machinery in the converted poultry building.

S04-13, request of Charles E. Smith, Jr., 9166 Hone Quarry Road, Dayton, for a residence involving a division of land on property located on the southeast side of Briery Branch Road (Route 257) approximately 1/4 mile southwest of Spring Creek Road (Route 613) in Ashby Magisterial District, Election District #4, zoned A-1. Tax Map 3104-(A)-122B.

Mr. Smith advised that his ex-wife was willing to sign the necessary documents for dividing the property.

Libby Smith, ex-wife, advised that the property had been cleaned up and her attorney had given her permission to sign the documents.

S04-14, request of Norman and Lois Coon, 3252 Scenic Road, Elkton, requesting a residence involving a division of land on property located on the southeast side of Scenic Road (Route 857) approximately 2/10 mile southwest of Naked Creek Road (Route 609) in Stonewall Magisterial District, Election District #5, zoned A-1. Tax Map #116-(A)-102A.

Mr. Coon said his neighbors wished to build a house for their daughter.

S04-15, request of Lonnie Bible, 5622 Indian Ridge Lane, Harrisonburg, for a repair shop for cast iron (like use to welding shop) on property located on the east side of Indian Ridge Lane (private road) approximately 2/10 mile southwest of Melrose Road (Route 724) in Linville Magisterial District, Election District #2, zoned A-2. Tax Map #80-(A)-24A.

Mr. Bible said his shop was small and just getting started. He said he planned to move to a larger location when such a move became necessary.

S04-16, request of John and Melinda Timmons, 1444 Bethel Church Road, Elkton, for a Little League baseball practice field (entertainment outside a building) on property located on the east side of Bethel Church Road (Route 636) approximately 4/10 mile west of River Road (Route 635) in Stonewall Magisterial District, Election District #5, zoned A-2. Tax Map #114-(A)-130B1.

Mr. Timmons said he wanted his son's Little League team to be able to practice on the field and for games to be played there on occasion.

Bradley Akers objected to the use, expressing concern about noise, loss of privacy, lowered property values, dust, liability problems, traffic and the possibility of setting a precedent for other such uses to move into the neighborhood.

S04-17, request of Bergey Tire, 3717 Industrial Drive, Broadway, for an off-premise advertising sign (on top of existing sign) on property located on the east side of Harpine Highway (Route 42) just south of Industrial Drive (Route 1420) in Plains Magisterial District, Election District #1, zoned M2. Tax Map#51A3-(2)B 18 L26.

No opposition was expressed.

Chairman Ahrend closed the public hearing and called the regular session back to order at 7:35 p.m.

Asking that a condition be added to align the hours of the storage facility with the hours of operation of the Whitesel Brothers business on Garbers Church Road, on motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-12, request of Sunny Slope LLC, 1847 Sunny Slope Lane, Harrisonburg, for commercial storage for two customers in an existing poultry house on property located on Sunny Slope Lane (private road) on the west side of Erickson Avenue (Route 726) approximately ½ mile west of Garbers Church Road (Route 910) in Central and Ashby Magisterial Districts, Election District #4, zoned A-2. Tax Map #107-(A)-201 & 107-(A)-205.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper change of use building permits shall be obtained.
- (3) A commercial entrance permit shall be obtained from VDOT's Residency Office and shall be submitted to the Department of Community Development prior to obtaining final zoning approval for building permits.
- (4) This permit is limited to the use of one 40' x 896' poultry house only. Use of any additional poultry houses for storage shall require additional special use permit approval.
- (5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (6) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (7) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (8) Off-street parking shall comply with the Rockingham County Code.
- (9) This business shall meet all requirements of the State Fire Prevention Code.
- (10) Applicant shall not use the property for the commercial storage of explosives, fuel, or other flammable materials, or goods or products that contain, emit, produce, or generate toxic or hazardous substances in such quantities or in such manner which would require reporting under The Emergency Planning and Community right to Know Act, 42 USC §11001 et seq. or The Comprehensive Environmental Response, Compensation and Liability Act, 42 USC §9601 et seq.
- (11) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.
- (12) Hours of operation shall align with hours of operation of Whitesel Brothers, Inc. on Garbers Church Road unless an emergency occurs that would require the loading or unloading of trucks at this site after normal operating hours.

With the addition of the word "not" in Condition No. 6, on motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-13, request of Charles E. Smith, Jr., 9166 Hone Quarry Road, Dayton, for a residence involving a division of land on property located on the southeast side of Briery Branch Road (Route 257) approximately 1/4 mile southwest of Spring Creek Road (Route 613) in Ashby Magisterial District, Election District #4, zoned A-1. Tax Map 3104-(A)-122B.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence(s) shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) This permit is contingent upon applicant obtaining an on-site sewage disposal system permit from the Health Department. A copy of a septic permit for each lot shall be presented to the Community Development Department prior to deed exception approval.

- (4) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (5) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one year completion date.
- (6) A residence placed on either the 1.147 lot or on the 1.000 acre lot shall not be used for rental purposes.
- (7) If a residence is placed on either of these parcels, the residence shall not be occupied until a certificate of occupancy is issued by the County. A certificate of occupancy shall not be issued until all other conditions are met.

Noting that the request was similar to an adjacent transfer, on motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-14, request of Norman and Lois Coon, 3252 Scenic Road, Elkton, requesting a residence involving a division of land on property located on the southeast side of Scenic Road (Route 857) approximately 2/10 mile southwest of Naked Creek Road (Route 609) in Stonewall Magisterial District, Election District #5, zoned A-1. Tax Map #116-(A)-102A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) This permit is contingent upon applicant obtaining an on-site sewage disposal system permit from the Health Department. A copy of said permit shall be presented to the Community Development Department prior to deed exception approval.
- (5) As a portion of the property is in the 100-year floodplain, applicant shall obtain elevation shots from a certified surveyor or engineer and present them to the Community Development Department prior to obtaining final zoning approval for a building permit.
- (6) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one year completion date.
- (7) This residence shall not be used for rental purposes.
- (8) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

At Chairman Ahrend's request, on motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-15, request of Lonnie Bible, 5622 Indian Ridge Lane, Harrisonburg, for a repair shop for cast iron (like use to welding shop) on property located on the east side of Indian Ridge Lane (private road) approximately 2/10 mile southwest of Melrose Road (Route 724) in Linville Magisterial District, Election District #2, zoned A-2. Tax Map #80-(A)-24A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) A change of use building permit shall be obtained and any alterations to the existing building shall comply with the Virginia Uniform Statewide Building Code. This permit can be obtained only after site plan approval.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) The public will not be coming to this shop. If applicant later opens it to the public, a new special use permit shall be required.
- (5) In accordance with the Health Department requirements, there shall be no more than two people working in this shop.
- (6) No items associated with this use shall be stored outside the building, and there shall be no trash, junk or debris allowed to accumulate on the property.
- (7) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (8) As the shop is not open to the public, there shall be no advertising sign associated with this use.
- (9) As this shop is not open to the public, parking requirements shall be limited only to the vehicles that the applicant uses in the business.
- (10) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Supervisor Breeden advised that he had visited the Timmons property and would like for the rest of the Board to visit the site before taking any action on the request. On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled 04-16, request of John and Melinda Timmons, 1444 Bethel Church Road, Elkton, for a Little League baseball practice field (entertainment outside a building) on property located on the east side of Bethel Road (Route 636) approximately 4/10 mile west of River Road (Route 635) in Stonewall Magisterial District, Election District #5, zoned A-2. Tax Map #114-(A)-130B1.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-17, request of Bergey Tire, 3717 Industrial Drive, Broadway, for an off-premise advertising sign (on top of existing sign) on property located on the east side of Harpine Highway (Route 42) just south of Industrial Drive (Route 1420) in Plains Magisterial District, Election District #1, zoned M2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.

- (2) Sign shall comply with the Virginia Uniform Building Code and any necessary permits shall be obtained.
- (3) A Land Use Permit for Outdoor Advertising shall be obtained from VDOT's Staunton Office, and a copy of the permit shall be submitted to the Community Development Department.
- (4) All Rockingham County and State laws pertaining to outdoor advertising signs shall be met.
- (5) The sign shall be kept in good repair and if not kept in good repair, it shall be removed from the property.
- (6) If business advertised on the sign should cease operation, the sign face shall be removed within 30 days from the date the business last operates.

oooooOooooo

**PUBLIC HEARING ON TAX EXEMPT REVENUE BONDS FOR LAKEWOOD
SEWER PROJECT AND TO REFINANCE 1992 BONDS OUTSTANDING.**

At 7:40 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the question of authorizing the issuance of Tax Exempt Revenue Bonds not to exceed \$1,750,000 for Lakewood Sewer Project and to refinance 1992 Bonds Outstanding.

Carolyn M. Perry, Bond Counsel, reviewed the particulars of this matter. There were no requests to speak on the subject.

Chairman Ahrend closed the public hearing and called the regular session back to order at 7:44 p.m.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following Resolution No. 04-11.

**RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND AWARD OF UP TO \$1,750,000
ROCKINGHAM COUNTY, VIRGINIA TAX EXEMPT REVENUE BONDS, SERIES 2004, AND
PROVIDING THE FORM AND DETAIL THEREOF**

WHEREAS, pursuant to Title 15.2 of the Code of Virginia, 1950, as amended (the "Code"), Rockingham County, Virginia (the "County") is empowered to finance and refinance the acquisition, construction, reconstruction, renovation, enlargement, and equipping of the County's waste water and sewer system (the "System"), and to issue its revenue bonds to pay all or any part of the cost of the System, and to pledge the revenues of the System for the payment thereof; and

WHEREAS, pursuant to the Code, the County is empowered to pledge for the payment of principal and interest on its revenue bonds the revenues of the System for that purpose; and

WHEREAS, the County desires to obtain funds in a principal amount not to exceed \$1,750,000, in order to pay the costs to: (i) acquire, construct, reconstruct, expand, and equip wastewater system facilities located in the County, including but not limited to the Lakewood Sewer Project – Phase I; (ii) refinance the outstanding amount of the County's revenue bonds issued to the Virginia Water Facilities Revolving Fund on August 14, 1992, in the original principal amount of \$543,379; and (iii) pay issuance expenses in connection with the Bonds (collectively, the "Project"); and

WHEREAS, the County has applied to Virginia Resources Authority ("VRA") for the purchase of the County's tax-exempt revenue bonds in an amount not to exceed \$1,750,000, and VRA has indicated its willingness to purchase such bonds from the proceeds of its Infrastructure Revenue Bonds (Virginia Pooled

Financing Program), Series 2004, in one or more series (the "VRA Bonds"), in accordance with the terms of a Financing Agreement between VRA and the County to be dated as of June 1, 2004 (the "Financing Agreement"), a Local Bond Sale Agreement between VRA and the County to be dated the date of sale of the VRA Bonds (the "Local Bond Sale Agreement"), and a Nonarbitrage Certificate and Tax Compliance Agreement between VRA and the County (the "Tax Compliance Agreement"), the forms of which have been presented to this meeting; and

WHEREAS, the Board of Supervisors of the County (the "Board") has duly held a public hearing, duly noticed, on April 28, 2004, on the issuance and sale by the County of up to \$1,750,000 Tax-Exempt Revenue Bonds, Series 2004 (VRA Pooled Program), (the "Bonds") in accordance with the requirements of Section 15.2-2606 of the Code; and

WHEREAS, the Board now desires to authorize the issuance, sale and award of the Bonds for the purpose of financing the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA:

1. Authorization of Bonds and Use of Proceeds. The Board hereby determines that it is advisable to contract a debt and issue and sell to the VRA up to \$1,750,000 Tax-Exempt Revenue Bonds, Series 2004, for the purpose of financing the Project as described herein. The Board hereby authorizes the issuance and sale of the Bonds in the form and upon the terms established pursuant to this Resolution (the "Authorizing Resolution"). The sale of the Bonds to the VRA is hereby authorized and shall be delivered to or upon the order of VRA upon payment of the purchase price thereof, pursuant to the terms and conditions set forth in the Local Bond Sale Agreement and the Financing Agreement. The proceeds from the issuance and sale of the Bonds shall be used, along with other lawfully available funds of the County to the extent appropriated therefor, to provide funds to pay the costs of the Project, as described above, and further described in the Financing Agreement.

2. Sale of the Bonds. It is determined to be in the best interest of the County to accept the offer of the VRA to purchase, and the County to sell to the VRA, the Bonds at a price, determined by the VRA to be fair and accepted by the Chairman or Vice-Chairman of the Board, or the County Administrator (whether collectively or individually, any one or more of whom may act, the "County Representative"), upon the terms established pursuant to this Authorizing Resolution, the Financing Agreement, and the Local Bond Sale Agreement. The Board hereby authorizes the issuance and sale of the Bonds in the form and upon the terms established pursuant to this Authorizing Resolution. The County Representative is hereby authorized and directed to accept the final aggregate principal amount of the Bonds advised by the VRA, provided that such aggregate principal amount of the Bonds shall not exceed the amount authorized by this Authorizing Resolution. The execution and delivery of the Bonds as described herein shall conclusively evidence such principal amount and interest rates as established by the VRA and as having been so accepted as authorized by this Authorizing Resolution, without further action from the County being required therefor.

3. Authorization of Documentation in Connection with the Bonds. The substantially final form of the Financing Agreement is attached hereto as **Exhibit A**, and is hereby approved. The substantially final form of the Local Bond Sale Agreement is attached hereto as **Exhibit B**, and is hereby approved. The County Representative, and such officer or officers of the County as any of them may designate, are each hereby authorized and directed to execute and deliver the Financing Agreement and the Local Bond Sale Agreement on behalf of the County in substantially the forms attached hereto, with such changes as any one or more of them shall approve, as may be requested by the VRA or advised by legal counsel.

4. Details of the Bonds. The Bonds shall be issued in fully registered form; and, shall be designated up to "\$1,750,000 Rockingham County, Virginia Tax-Exempt Revenue Bonds, Series 2004". The County Representative is authorized and directed to determine and approve all of the final details of the Bonds, including without limitation, the dated of issuance and the dated date of the Bonds, the maximum principal amount authorized to be advanced thereunder, the stated interest rates therein, the maturity or payment dates and amounts and the final maturity date; provided however, (i) the maximum principal amount of the Bonds shall not exceed \$1,750,000; (ii) the true interest cost of the Bonds shall not exceed six percent (6.0%) per annum (exclusive of Supplemental Interest as defined in the Financing Agreement); (iii) the Bonds shall be sold to VRA at a price not less than 93% of the aggregate principal amount of the Bonds, and (iv) the final maturity date of the Bonds shall be not later than December 31, 2034. Such purchase price, interest rates and maturity schedule shall be established pursuant to the Local Bond Sale Agreement. The approval of the County Representative of such details shall be evidenced conclusively by the due execution and delivery of the Bonds on the County's behalf to or at the direction of the VRA. Following the pricing of the corresponding VRA Bonds, the County Representative shall evidence his approval of the final terms and purchase price of the Bonds by executing and delivering to VRA the Local Bond Sale Agreement, which shall be in substantially the form presented to this meeting, with such completions, omissions, insertions and changes not inconsistent with this Authorizing Resolution as may be approved by the officer executing the Local Bond Sale Agreement. The actions of the County

Representative, in determining the final terms and the purchase price of the Bonds, shall be conclusive, and no further action shall be necessary on the part of the County.

5. Form of the Bonds. The Bonds shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as **Exhibit C**. There may be endorsed on the Bonds such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

6. Execution of the Bonds. The County Representative is authorized and directed to execute and deliver the Bonds and to affix the seal of the County thereto.

7. Authorization as to Additional Documentation in Connection with the Bonds. The County Representative, the County Treasurer, and such other officers, employees and agents of the County as may be requested, are each hereby authorized and directed to take all proper steps to have the Bonds prepared and executed in accordance with their respective terms, and as may be advised by Bond Counsel to the County, and to deliver the Bonds upon payment therefor, and to execute and deliver (or cause the delivery of) all such additional instruments, notices, agreements, documents and certificates, including but not limited to the Tax Compliance Agreement regarding federal tax compliance requirements for the proceeds of the Bonds, and a notice of redemption in connection with the refinancing of the prior obligation described herein, all as may be requested by the County Attorney or Bond Counsel to the County, or as otherwise required by the VRA, in furtherance of the purposes as set forth herein. All such further actions consistent within the terms and provisions of this Authorizing Resolution shall be conclusively deemed as having been accepted and approved as authorized by this Authorizing Resolution without any further acts or approvals.

8. Redemption or Prepayment. The County may defease, redeem, prepay or refund the Bonds only in accordance with the Financing Agreement or other requirements of the VRA.

9. Pledge of Revenues. The Bonds shall be revenue bonds of the County for the payment of principal and interest on which the revenues of the System shall be pledged, subject to the County's right to apply the revenues to the payment of operation and maintenance expenses of the System. Such pledge of the revenues shall be valid and binding from and after the date of delivery of the Bonds. Further, the revenues, as received by the County, shall immediately be subject to the lien of this pledge without any physical delivery of them or further act, and the lien of this pledge shall have priority over all other obligations and liabilities of the County payable from such revenues, and shall be valid and binding against all parties having claims of any kind against the County regardless of whether such parties have notice of such pledge.

10. Capital Reserve Fund. The County agrees to pay all amounts required by Section 6.1 of the Financing Agreement, including the "supplemental interest" and "late charges," as provided in such Section, all as required by the VRA.

11. Registration, Transfer and Exchange. The Board hereby appoints the County Treasurer as its registrar and transfer agent to keep books for the registration and transfer of the Bonds and to make such registrations and transfers on such books under such reasonable regulations as the County may prescribe. Upon surrender for transfer or exchange of the Bonds at the office of the County Treasurer, the County shall cause the execution and delivery in the name of the transferee or registered owner, as applicable, of new Bonds for a principal amount equal to the Bonds surrendered and of the same date and tenor as the Bonds surrendered, subject in each case to such reasonable regulations as the County may prescribe. If surrendered for transfer, exchange, redemption or payment, the Bonds shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and substance reasonably satisfactory to the County Treasurer, duly executed by the registered owner or by his or her duly authorized attorney-in-fact or legal representative. The new Bonds delivered upon any transfer or exchange shall be valid general obligations of the County, evidencing the same debt as the Bonds surrendered and shall be entitled to all of the security and benefits of this Authorizing Resolution to the same extent as the Bonds.

12. Charges for Exchange or Transfer. No charge shall be made for any exchange or transfer of the Bonds, but the County Treasurer may require payment by the holder of the Bonds of a sum sufficient to cover any tax or any other governmental charge that may be imposed in relation thereto.

13. Disclosure Documents. The County authorizes and consents to the inclusion of information with respect to the County to be contained in the VRA's Preliminary Official Statement and the VRA's Official Statement in final form, both prepared in connection with the sale of the bonds to be issued by the VRA, a portion of the proceeds of which will be used to purchase the Bonds. If appropriate, such disclosure documents shall be distributed in such manner and at such times as any of them shall determine. The County authorizes and consents to the inclusion of information with respect to the County to be contained in any of the VRA's public disclosure documentation, as may be advisable or required. The County Administrator is authorized and directed to take whatever actions are necessary and/or appropriate to ensure compliance by the VRA and the County, if any, with Securities and Exchange Commission Rule 15c2-12, all as may be required by the VRA in connection with the issuance of the Bonds and any continuing disclosure requirements thereafter, all as set forth in the Financing Agreement.

14. Non-Arbitrage Certificate and Tax Compliance Agreement. The County Representative, and such officer or officers of the County as any of them may designate, are each hereby authorized and directed to execute the Tax Compliance Agreement in substantially the form presented to this meeting, setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), including the provisions of Section 148 of the Code and applicable regulations relating to "arbitrage bonds." The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Bonds will be expended and invested as set forth in the Tax Compliance Agreement and that the County shall comply with the covenants and representations contained therein, and (ii) the County shall comply with the provisions of the Code so that interest on the Bonds and on the VRA Bonds will remain excludible from gross income for Federal income tax purposes.

15. State Non-Arbitrage Program. The Board hereby determines that it is in the best interest of the County to authorize and direct the County Treasurer to participate in the State Non-Arbitrage Program ("Virginia SNAP") in connection with the Bonds, as set forth in the Financing Agreement and as may be required by the VRA.

16. Filing of Resolution. The appropriate officers or agents of the County are each hereby authorized and directed to cause a certified copy of this Authorizing Resolution to be filed with the Circuit Court of Rockingham County, Virginia, all in accordance with the Code.

17. Further Actions; Authorized Representatives. The County Representative, the County Treasurer, and all officers, employees and agents of the County as may be designated, are each hereby authorized and directed to take all such further action as they or anyone of them may consider necessary or desirable in connection with the issuance of the Bonds and the execution, delivery and performance of the Financing Agreement, including, without limitation, the execution and delivery of closing documents and certificates, all as may be required by the VRA. All such actions previously taken in connection herewith are hereby ratified and confirmed. The persons named herein as the County Representative shall also be designated as the County's Authorized Representatives for purposes of the Financing Agreement.

18. Effective Date. This Authorizing Resolution shall take effect immediately.

Approved: April 28, 2004

Chairman, Board of Supervisors
Rockingham County, Virginia

Exhibit A: Form of Financing Agreement
Exhibit B: Form of Local Bond Sale Agreement
Exhibit C: Form of Bonds

CERTIFICATE

The undersigned Clerk of the Board of Supervisors of Rockingham County, Virginia, hereby certifies that the foregoing constitutes a true and correct copy of a resolution adopted by the Board of Supervisors at a regular meeting duly held and called on April 28, 2004. A record of the roll-call vote by the Board of Supervisors is as follows:

	AYE	NAY	ABSTAIN	ABSENT
Charles W. Ahrend, Chairman				
William B. Kyger, Jr.				
Michael A. Breeden				
Dee E. Floyd				
Pablo Cuevas				

Dated: April 28, 2004

[SEAL]

Clerk, Board of Supervisors
Rockingham County, Virginia

FINANCING AGREEMENT
Between
VIRGINIA RESOURCES AUTHORITY
And
COUNTY OF ROCKINGHAM, VIRGINIA

Dated as of June 1, 2004
Virginia Resources Authority
Infrastructure Revenue Bonds
(Virginia Pooled Financing Program)
Series 2004A (Non-AMT)

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FINANCING AGREEMENT

THIS FINANCING AGREEMENT (this "Agreement") is made as of June 1, 2004, between the **VIRGINIA RESOURCES AUTHORITY**, a public body corporate and a political subdivision of the Commonwealth of Virginia ("VRA"), and the **COUNTY OF ROCKINGHAM, VIRGINIA**, a political subdivision of the Commonwealth of Virginia (the "Locality").

A. VRA intends to issue its Infrastructure Revenue Bonds (Virginia Pooled Financing Program), Series 2004A (Non-AMT) (the "Series 2004 VRA Bonds"), and to use a portion of the proceeds thereof to acquire from the Locality the Water and Revenue System Revenue Bond, Series 2004 (the "Local Bond"), to be issued by the Locality in the original principal amount of \$[1,200,000] and dated May __, 2004.

B. VRA and the Locality wish to set forth in this Agreement the terms and conditions of the purchase of the Local Bond.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements hereinafter contained, VRA and the Locality covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1 **Definitions.** The capitalized terms contained in this Agreement shall have the meanings set forth below unless the context otherwise requires:

- "Act"** means the Virginia Resources Authority Act, Chapter 21, Title 62.1 of the Code of Virginia of 1950, as amended.
- "Agreement"** means this Financing Agreement dated as of June 1, 2004, between VRA and the Locality, as modified, altered, amended or supplemented in accordance with the terms hereof.
- "Annual Budget"** means the budget of the System for each Fiscal Year prepared and approved in accordance with Section 5.4.
- "Capital Reserve Fund"** means the Capital Reserve Fund established under Section 7.1 of the Master Indenture to provide credit support for certain of the Series 2004 VRA Bonds and other VRA Bonds.
- "Consulting Engineer"** means (i) the Local Engineer or (ii) such other firm of independent consulting engineers experienced and of recognized standing in the field of water and sewer engineering and licensed as professional engineers in Virginia as the Locality may designate from time to time in a written notice to VRA, which firm shall be subject to VRA's reasonable approval.
- "CRF Credit Facility"** shall have the meaning set forth in the Master Indenture.
- "CRF Credit Provider"** shall have the meaning set forth in the Master Indenture.
- "Event of Default"** shall have the meaning set forth in Section 10.1.
- "Existing Parity Bonds"** means the bonds or other obligations of the Locality listed under Existing Parity Bonds in Exhibit E.
- "Fiscal Year"** means the twelve-month period beginning July 1 of one year and ending on June 30 of the following year or such other twelve-month period established by the Locality as its annual accounting period.
- "Local Account"** means the Local Account established for the Local Bond within the Series 2004 Acquisition Fund.
- "Local Bond"** means the Locality's Water and Sewer System Revenue Bond, Series 2004, issued in the original principal amount of \$[1,200,000], dated May __, 2004, and in substantially the form of Exhibit A to this Agreement.
- "Local Bond Documents"** means, collectively, this Agreement, the Local Bond Sale Agreement and the Local Tax Document.
- "Local Bond Sale Agreement"** means the Local Bond Sale Agreement dated May __, 2004, between VRA and the Locality.
- "Local Engineer"** means any employee of the Locality licensed as a professional engineer in Virginia and with recognized standing and experience in the field of water and sewer engineering that the Locality may designate from time to time in a written notice to VRA, which employee shall be subject to VRA's reasonable approval.
- "Local Representative"** means the Chairman of the Locality, the County Administrator of the Locality or any other official or employee of the Locality authorized by resolution of the Locality to perform the act or sign the document in question.
- "Local Resolution"** means, the resolution adopted on April __, 2004, by a majority of the members of the governing body of the Locality approving (i) the transactions contemplated by and authorizing the execution and delivery of the Local Bond Documents and (ii) and the execution, issuance and sale of the Local Bond.
- "Local Tax Document"** means the Nonarbitrage Certificate and Tax Compliance Agreement, dated the Series 2004 Closing Date, between

the Locality and VRA, as modified, altered, amended and supplemented.

"Master Indenture" means the Master Indenture of Trust dated as of December 1, 2003, between VRA and the Trustee, as modified, altered, amended and supplemented in accordance with its terms.

"Net Revenues Available for Debt Service" means the Revenues less amounts necessary to pay Operation and Maintenance Expenses.

"Operating Reserve Fund" means the Operating Reserve Fund established under Section 7.1 of the Master Indenture to provide additional security for certain of the Series 2004 VRA Bonds and other VRA Bonds.

"Operation and Maintenance Expenses" means the costs of operating and maintaining the System determined under generally accepted accounting principles, exclusive of (i) interest on any debt payable from Revenues, (ii) depreciation and other items not requiring the expenditure of cash, (iii) any amounts expended for capital replacements, repairs and maintenance not recurring either annually or biannually, depending on the customary practice of performing operation and maintenance, or reserves therefor, and (iv) reserves for administration, operation and maintenance occurring in the normal course of business.

"Parity Bonds" means bonds, notes or other evidences of indebtedness of the Locality issued under Section 9.6.

"Prior Bonds" means the bonds or other obligations of the Locality listed under Prior Bonds in Exhibit E.

"Project" means the particular project described in Exhibit B.

"Project Budget" means the budget for the financing of the Project set forth in Exhibit C.

"Project Costs" means the costs of the Project to the extent such costs are included in the definition of "cost" set forth in Section 62.1-199 of the Act, and includes the refunding of obligations of VRA or the Locality used to finance "costs" set forth in Section 62.1-199.

"Purchase Price" means \$_____, which represents the amount received by the Locality from the sale of the Local Bond to VRA. It is acknowledged that the Purchase Price does not include any accrued interest on the Local Bond from its dated date to the Series 2004 Closing Date.

"Registrar" means the officer or employee of the Locality designated under the Local Resolution to maintain the registration books for the Local Bond.

"Revenues" means (i) all rates, fees, rentals, charges, income and money properly allocable to the System under generally accepted accounting principles or resulting from the Locality's ownership or operation of the System and all rights to receive the same, whether now existing or hereafter coming into existence, exclusive of user and other deposits subject to refund until such deposits have become the Locality's property, (ii) the proceeds of any insurance covering business interruption loss relating to the System, (iii) interest on any money or securities related to the System held by or on behalf of the Locality except as otherwise provided by the Master Indenture, and (iv) any other money from other sources now or hereafter pledged or specifically made available by or on behalf of the Locality to or for the payment of Operation and Maintenance Expenses or debt service on the Local Bond, Existing Parity Bonds or Parity Bonds.

"Second Supplemental Series Indenture" means the Second Supplemental Series Indenture of Trust dated as of June 1, 2004, between VRA and the Trustee, as modified, altered, amended and supplemented in accordance with its terms and those of the Master Indenture.

"Senior DSRF Credit Facility" shall have the meaning set forth in the Master Indenture.

"Senior DSRF Credit Provider" shall have the meaning set forth in the Master Indenture.

"Senior Debt Service Reserve Fund" means the Senior Debt Service Reserve Fund established under Section 7.1 of the Master Indenture to provide credit support for the VRA Bonds if funded pursuant to a subsequent Supplemental Series Indenture.

"Series 2004 Acquisition Fund" shall have the meaning set forth in the Second Supplemental Series Indenture.

"Series 2004 Closing Date" means June __, 2004.

"Series 2004 Sale Date" means May __, 2004.

"Series 2004 VRA Bonds" means the Virginia Resources Authority Infrastructure Revenue Bonds (Virginia Pooled Financing Program), Series 2004A (Non-AMT), in the original aggregate principal amount of \$_____, and, unless the Locality receives notice to the contrary from VRA, any bonds issued to refund the Series 2004 VRA Bonds in whole or in part.

"Subordinate Bonds" means bonds, notes or other evidences of indebtedness of the Locality secured by a pledge of Revenues expressly made subordinate to the pledge of Revenues securing the Local Bond.

"Supplemental Interest" shall have the meaning set forth in Section 6.1.

"System" means all plants, systems, facilities, equipment or property owned, operated or maintained by the Locality, and used in connection with the supply, treatment, storage or distribution of water and the collection and treatment of wastewater, as the same may from time to time exist.

"Trustee" means SunTrust Bank, Richmond, Virginia, or its successors serving in such capacity.

"Virginia AIM" means the Commonwealth of Virginia AIM Program.

"VRA" means the Virginia Resources Authority, a public body corporate and a political subdivision of the Commonwealth of Virginia.

"VRA Bonds" means the Series 2004 VRA Bonds and any additional Series of Bonds issued under the Master Indenture.

Section 1.2 **Rules of Construction.** The following rules shall apply to the construction of this Agreement unless the context requires otherwise:

- (a) Singular words shall connote the plural number as well as the singular and vice versa.
- (b) Words importing the redemption or calling for redemption of the Local Bond shall not be deemed to refer to or connote the payment of the Local Bond at its stated maturity.
- (c) All references in this Agreement to particular Articles, Sections or Exhibits are references to Articles, Sections or Exhibits of this Agreement unless otherwise indicated.
- (d) The headings and table of contents as used in this Agreement are solely for convenience of reference and shall not constitute a part of this Agreement nor shall they affect its meaning, construction or effect.

ARTICLE II

REPRESENTATIONS

Section 2.1 **Representations by VRA.** VRA makes the following representations as the basis for its undertakings under this Agreement:

- (a) VRA is a duly created and validly existing public body corporate and a political subdivision of the Commonwealth of Virginia vested with the rights and powers conferred upon it under the Act.
- (b) VRA has full right, power and authority to (i) issue, sell and deliver the Series 2004 VRA Bonds, (ii) direct the Trustee to use a portion of the proceeds of the Series 2004 VRA Bonds to purchase the Local Bond from the Locality as contemplated under the Second Supplemental Series Indenture and this Agreement, and (iii) carry out and consummate all other transactions contemplated by this Agreement.
- (c) This Agreement has been duly authorized, executed and delivered by VRA and constitutes a legal, valid and binding obligation of VRA enforceable against VRA in accordance with its terms.

Section 2.2 **Representations by Locality.** The Locality makes the following representations as the basis for its undertakings under this Agreement:

- (a) The Locality is a duly created and validly existing Virginia "local government" (as defined in Section 62.1-199 of the Act) and is vested with the rights and powers conferred upon it by Virginia law.
- (b) The Locality has full right, power and authority to (i) adopt the Local Resolution and execute and deliver the Local Bond Documents and all related documents, (ii) issue, sell and deliver its Local Bond to the Trustee, (iii) own and operate the System, (iv) undertake the Project, and (v) carry out and consummate all of the transactions contemplated by the Local Resolution, this Agreement, the Local Bond and the Local Bond Documents.
- (c) The Local Bond Documents and the Local Bond were duly authorized by the Local Resolution and are in substantially the same forms as presented to the Locality's governing body at its meeting at which the Local Resolution was adopted.
- (d) All governmental permits, licenses, registrations, certificates, authorizations and approvals required to have been obtained as of each of the Series 2004 Sale Date and the Series 2004 Closing Date have been obtained for (i) the Locality's adoption of the Local Resolution, (ii) the execution and delivery of the Local Bond Documents and the Local Bond, (iii) the Locality's performance of its obligations under the Local Bond Documents and the Local Bond, (iv) the undertaking of the Project, and (v) the operation and use of the System. The Locality knows of no reason why any such required governmental permits, licenses, registrations, certificates, authorizations or approvals cannot be obtained as required in the future.
- (e) Each of the Local Bond Documents has been executed and delivered by duly authorized officials of the Locality and constitutes the legal, valid and binding obligation of the Locality enforceable against the Locality in accordance with its terms.
- (f) The Local Bond has been executed and delivered by duly authorized officials of the Locality and constitutes a legal, valid and binding limited obligation of the Locality enforceable against the Locality in accordance with its terms.
- (g) The issuance of the Local Bond and the execution and delivery of the Local Bond Documents and the performance by the Locality of its obligations thereunder are within the powers of the Locality and will not conflict with, or constitute a breach or result in a violation of, (i) to the best of the Locality's knowledge, any Federal, or Virginia constitutional or statutory provision, including the Locality's charter or articles of incorporation, if any, (ii) any agreement or other

instrument to which the Locality is a party or by which it is bound or (iii) any order, rule, regulation, decree or ordinance of any court, government or governmental authority having jurisdiction over the Locality or its property.

- (h) The Locality is not in default in the payment of the principal of or interest of any of its indebtedness for borrowed money and is not in default under any instrument under and subject to which any indebtedness for borrowed money has been incurred. No event or condition has happened or existed, or is happening or existing, under the provisions of any such instrument, including but not limited to the Local Bond Documents, which constitutes, or which, with notice or lapse of time, or both, would constitute an event of default thereunder.
- (i) The Locality (i) to the best of the Locality's knowledge, is not in violation of any existing law, rule or regulation applicable to it in any way which would have a material adverse effect on its financial condition or its ability to perform its obligations under the Local Bond or the Local Bond Documents and (ii) is not in default under any indenture, mortgage, deed of trust, lien, lease, contract, note, order, judgment, decree or other agreement, instrument or restriction of any kind to which the Locality is a party or by which it is bound or to which any of its assets is subject, which would have a material adverse effect on its financial condition or its ability to perform its obligations under the Local Bond and the Local Bond Documents. The execution and delivery by the Locality of the Local Bond and the Local Bond Documents and the compliance with the terms and conditions thereof will not conflict with or result in a breach of or constitute a default under any of the forgoing.
- (j) Except as may otherwise be approved by VRA or permitted by the terms of the Local Bond Documents, the System at all times is and will be owned by the Locality and will not be operated or controlled by any other entity or person.
- (k) There are not pending nor, to the best of the Locality's knowledge, threatened against the Locality, any actions, suits, proceedings or investigations of a legal, equitable, regulatory, administrative or legislative nature, (i) affecting the creation, organization or existence of the Locality or the title of its officers to their respective offices, (ii) seeking to prohibit, restrain or enjoin the approval, execution, delivery or performance of the Local Resolution or the Local Bond Documents or the issuance or delivery of the Local Bond, (iii) in any way contesting or affecting the validity or enforceability of the Local Bond, the Local Resolution, the Local Bond Documents or any agreement or instrument relating to any of the foregoing, (iv) in which a judgment, order or resolution may have a material adverse effect on the Locality or its business, assets, condition (financial or otherwise), operations or prospects or on its ability to perform its obligations under the Local Resolution, the Local Bond Documents or the Local Bond or (v) the undertaking of the Project.
- (l) No material adverse change has occurred in the Locality's financial condition as indicated in the financial statements, applications and other information furnished to VRA.
- (m) Except for the Existing Parity Bonds and Prior Bonds, there is no indebtedness of the Locality secured by a pledge of Revenues prior to or on a parity with the lien of the pledge of Revenues securing the Local Bond.
- (n) No Event of Default has occurred and is continuing.

ARTICLE III

PURCHASE OF THE LOCAL BOND

Section 3.1 **Purchase of the Local Bond.** The Locality agrees to issue and sell to the Trustee at the direction of VRA and VRA agrees to cause the Trustee to agree to purchase the Local Bond for an amount equal to the Purchase Price. The Locality shall issue the Local Bond in substantially the form of Exhibit A.

Section 3.2 **Conditions Precedent to Purchase of the Local Bond.** VRA shall not be required to cause the Trustee to purchase the Local Bond unless VRA has received the following, all in form and substance satisfactory to VRA:

- (a) Certified copies of the Local Resolution and all other ordinances and resolutions of the Locality relating to this Agreement and the Local Bond.
- (b) A certificate of appropriate officials of the Locality as to the matters set forth in Section 2.2 and such other matters as VRA may reasonably require.
- (c) A certificate of the Consulting Engineer giving the Consulting Engineer's estimate of the construction portion of the total Project Costs to be financed with the proceeds of the Local Bond, which contracts or estimates must be in an amount and otherwise compatible with the financing plan described in the Project Budget.
- (d) A certificate of the Consulting Engineer (i) to the effect that the Project will be a part of the System, (ii) to the effect that the Purchase Price and funds available from the other sources specified in the Project Budget will be sufficient to pay the estimated construction portion of the total Project Costs, and (iii) specifying the date the Locality is expected to complete the Project.
- (e) A certificate of the Consulting Engineer to the effect that in the opinion of the Consulting Engineer during the first two complete Fiscal Years following the estimated completion date of the Project, the projected Net Revenues Available for Debt Service will satisfy the Locality's rate covenant under Section 5.2. In providing this certificate, the Consulting Engineer may take into consideration future System rate increases, provided that such rate increases have been duly approved by the Locality's governing body and any other person or entity required to give approval for the rate increase to become effective. In addition, the Consulting Engineer may take into consideration additional future revenues to be derived under existing contractual arrangements entered into by the Locality and from reasonable estimates of growth in the Locality's consumer base.
- (f) (i) Evidence that all governmental permits, licenses, registrations, certificates, authorizations and approvals for the undertaking of the Project and the operation and use of the System required to have been obtained as of the Series 2004 Closing Date have been obtained and (ii) a statement of the Consulting Engineer that he knows of no reason why any such required governmental permits, licenses, registrations, certificates, authorizations and approvals for the undertaking of the Project and the operation and use of the System cannot be obtained as required in the future.
- (g) Evidence that the Locality has complied with the insurance provisions set forth in Sections 8.1 and 8.2.
- (h) Evidence that the Locality has performed and satisfied all of the terms and conditions contained in this Agreement to be performed and satisfied by it as of such date.

- (i) Evidence that the Locality has satisfied all conditions precedent to the issuance of the Local Bond as "Parity Bonds" under the financing documents for the Existing Parity Bonds.
- (j) A certificate of counsel to the Locality is substantially the form attached as Exhibit G.
- (k) An opinion of bond counsel to the Locality, in substantially the form attached as Exhibit H.
- (l) Original executed counterparts of the Local Bond Documents.
- (m) Such other documentation, certificates and opinions as VRA may reasonably require.

ARTICLE IV

USE OF PURCHASE PRICE

Section 4.1 **Deposit of Purchase Price; Investment of Amounts in Local Account.** (a) On the Series 2004 Closing Date, VRA shall cause the Trustee to deposit the Purchase Price into the Local Account and to apply the Purchase Price and the earnings thereon as set forth in the Second Supplemental Series Indenture, this Agreement and the Local Tax Document.

- (b) The Locality acknowledges and consents to the investment of the Purchase Price and the earnings thereon in Virginia AIM.

Section 4.2 **Agreement to Accomplish Project.** (a) The Locality agrees to cause the Project to be acquired, constructed, expanded, renovated, equipped or financed as described in Exhibit B and in accordance with the Project Budget and the plans, specifications and designs prepared by the Consulting Engineer and approved by the Locality. The Locality shall use its best efforts to complete the Project by the date set forth in the certificate delivered under Section 3.2(d). All plans, specifications and designs shall be approved by all applicable regulatory agencies. The Locality agrees to maintain complete and accurate books and records of the Project Costs and permit VRA or the Trustee through their duly authorized representatives to inspect such books and records at any reasonable time.

- (b) When any Project consisting in whole or in part of the acquisition, construction, rehabilitation or equipping of a portion of the System (i.e., a "new money" Project or portion of a Project) has been completed, the Locality shall promptly deliver to VRA and the Trustee a certificate signed by a Local Representative and by the Consulting Engineer stating (i) that the Project has been completed substantially in accordance with this Section and in substantial compliance with all material applicable laws, ordinances, rules and regulations, (ii) the date of such completion, and (iii) that all certificates of occupancy or other material permits then necessary for the Project's use, occupancy and operation have been issued or obtained.

- (c) If, upon the completion of the Project, there remain in the Local Account amounts that will not be necessary to pay Project Costs, the Trustee will then apply any remaining balance at the direction of the Locality in such manner as will not, in the opinion of Bond Counsel delivered to VRA and the Trustee, have an adverse effect on the tax-exempt status of either the Series 2004 VRA Bonds or the Local Bond.

Section 4.3 **Disbursement of Purchase Price and Earnings.** Except as provided in Section 4.2(c), the Locality agrees that amounts in the Local Account will be applied solely and exclusively to the payment or reimbursement of the Locality for

the Project Costs. The Locality further agrees, upon the request of the Trustee or VRA, to exhibit to the Trustee or VRA receipts, vouchers, statements, bills of sale or other evidence of payment of the Project Costs. Disbursements shall be made by the Trustee to the Locality not more frequently than once each calendar month (unless otherwise agreed by VRA, the Trustee and the Locality) upon receipt by the Trustee of the following:

- (a) A requisition (upon which the Trustee and VRA shall be entitled to rely) signed by a Local Representative and containing all information called for by, and otherwise being in the form of, Exhibit D;
- (b) If any requisition includes an item for payment for labor or to contractors, builders or materialmen,
 - (1) a certificate, signed by the Consulting Engineer, stating that such work was actually performed or such materials, supplies or equipment were actually furnished or installed in or about the construction of the Project; and
 - (2) a certificate, signed by a Local Representative, stating that no notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable under the requisition to any of the persons, firms or corporations named in it has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of the requisition.
- (c) If any requisition includes an item for payment of the cost of acquisition of any lands or easements, rights or interests in or relating to lands, there shall also be attached to such requisition:
 - (1) a certificate, signed by the Consulting Engineer, stating that such lands, easements, rights or interests are being acquired and are necessary or convenient for the construction of the Project; and
 - (2) a certificate, signed by a Local Representative, stating that upon payment therefor the Locality will have title in fee simple to, or easements, rights or interests sufficient for the purposes of, the Project over and through the subject lands.

Upon receipt of each such requisition and accompanying certificate or certificates, the Trustee shall make payment in accordance with such requisition from the Local Account.

The Locality agrees that any amounts disbursed to it or for its account from the Local Account will be (i) immediately applied to reimburse the Locality for Project Costs it has already incurred and paid or (ii) actually spent to pay Project Costs not later than 5 banking days after receipt.

Section 4.4 **Permits.** The Locality shall at its sole cost and expense apply for and obtain all permits, consents and approvals required by local, state or federal laws, ordinances, rules, regulations or requirements in connection with the acquisition, construction, equipping, occupation, operation or use of the Project and the operation and use of the System. The Locality shall, upon request, promptly furnish to VRA and the Trustee copies of all such permits, consents and approvals.

Section 4.5 **Construction Contractors.** Each general construction contractor employed in the accomplishment of the Project shall be required in the construction contract to furnish a performance bond and a payment bond each in an amount equal to one hundred percent of the particular contract price. Such bonds shall list the Locality, VRA and the Trustee as beneficiaries. Neither VRA nor the Trustee shall make any claims or exercise any rights under such bonds unless and until an Event of Default occurs hereunder. Each contractor shall be required to maintain during the

construction period covered by the particular construction contract builder's risk insurance, workmen's compensation insurance, public liability insurance, property damage insurance and vehicle liability insurance in amounts and on terms satisfactory to the Consulting Engineer.

Section 4.6 Engineering Services. The Locality shall retain or employ a Consulting Engineer to provide engineering services covering the operation of the System and, if applicable, the supervision and inspection of any Project consisting in whole or in part of acquisition, construction, rehabilitation or equipping of a portion of the System.

Section 4.7 Locality Required to Complete Project. If the Purchase Price is not sufficient to pay in full the cost of the Project, the Locality will complete the Project at its own expense from Revenues or lawfully available and appropriated funds and shall not be entitled to any reimbursement therefor from VRA or any abatement, diminution or postponement of its payments under the Local Bond or this Agreement.

Section 4.8 Payments and Rights Assigned. The Locality consents to VRA's assignment to the Trustee of VRA's rights under this Agreement and the Local Bond. The Locality also acknowledges and consents to the reservation by VRA of the right and license to enjoy and enforce VRA's rights under the Local Bond and this Agreement so long as no Event of Default (as defined in the Master Indenture) with respect to the Series 2004 VRA Bonds shall have occurred and be continuing. VRA shall be the registered owner of the Local Bond, however, the Locality agrees to pay directly to the Trustee all amounts payable by the Locality under the Local Bond and this Agreement (except for those amounts due under Section 11.7, which are payable directly to VRA).

ARTICLE V

PLEDGE; REVENUES AND RATES; FUNDS AND ACCOUNTS

Section 5.1 Pledge. Subject to the Locality's right to apply Revenues to the payment of Operation and Maintenance Expense and the Locality's obligation to apply Revenues to the payment of the Prior Bonds, the Revenues are hereby pledged to secure the payment of the principal of and premium, if any, and interest on the Local Bond and the payment and performance of the Locality's obligations under this Agreement on a parity with the Existing Parity Bonds. This pledge shall be valid and binding from and after the date the Locality executes this Agreement. The Revenues, as received by the Locality, shall immediately be subject to the lien of this pledge without any physical delivery of them or further act. Except as stated above, the lien of this pledge shall have priority over all other obligations and liabilities of the Locality payable from Revenues, and the lien of this pledge shall be valid and binding against all parties having claims of any kind against the Locality regardless of whether such parties have notice of this pledge. Until the occurrence and continuation of an Event of Default, the Locality may, after the application each month of Revenues to the payment of the Operation and Maintenance Expenses and debt service on the Prior Bonds and the Local Bond, the Existing Parity Bonds and any Parity Bonds, use the Revenues for any lawful purpose.

Section 5.2 Rate Covenant. (a) The Locality covenants and agrees that it will fix and collect rates, fees and other charges for the use of and for services furnished or to be furnished by its System, and will from time to time revise such rates, fees and other charges, so that in each Fiscal Year the Net Revenues Available for Debt Service will equal at least 115% of the amount required in the Fiscal Year to pay the principal of and interest on the Local Bond and all other indebtedness of the Locality payable from Revenues, including without limitation, indebtedness under leases which are treated as capital leases under generally accepted accounting principles.

- (b) If, for any reason, the Revenues are insufficient to satisfy the covenant set forth in subsection (a) of this Section, the Locality shall within ninety (90) days adjust and increase its rates, fees and other charges or reduce its Operation and Maintenance Expense so as to provide sufficient Revenues to satisfy such requirement.
- (c) Within 150 days after the close of each Fiscal Year, the Locality shall deliver to VRA a certificate or report of the Consulting Engineer, an independent certified public accountant or other consultant acceptable to VRA to the effect that during such Fiscal Year, the Locality satisfied the rate covenant in subsection (a) of this Section, or, if not, the amount of the deficiency in Net Revenues Available for Debt Service which existed and the rates, fees and other charges or cost savings the Locality must establish to avoid such deficiency in the then current Fiscal Year.
- (d) On or before the last day of each Fiscal Year, the Locality shall review the adequacy of its rates, fees and other charges for the next Fiscal Year, and, if such review indicates the Locality's rates, fees and other charges will be insufficient to satisfy the rate covenant in subsection (a) of this Section, the Locality shall promptly take appropriate action either under Section 5.5 or to increase its rates, fees and other charges or reduce its Operation and Maintenance Expenses to cure any deficiency.

Section 5.3 **Consulting Engineer's Report.** Not less than forty-five days before the commencement of each Fiscal Year, the Locality shall obtain a report from the Consulting Engineer giving advice and making recommendations as to the proper maintenance, repair, replacement and operation of the System during such Fiscal Year and estimating the costs thereof and as to the rates, fees and other charges which should be established by the Locality to satisfy the rate covenant in Section 5.2(a). The Locality shall furnish a copy of such report to VRA.

Section 5.4 **Annual Budget of the System.** Based on the report described in Section 5.3 above and such other information that the governing body of the Locality shall deem appropriate, the Locality shall cause to be prepared an annual budget of the System for such Fiscal Year setting forth a schedule of the rates, fees and other charges to be imposed by the Locality, the Revenues estimated to be generated thereby and the expenditures the Locality anticipates for operations, maintenance, repairs, replacements, improvements, debt service and other purposes. The Locality agrees before the first day of each Fiscal Year to adopt a budget for such Fiscal Year containing the information required to be included in the budget as provided above. Such budget as approved by the governing body of the Locality is referred to in this Agreement as the Annual Budget. The Locality may at any time during any Fiscal Year amend the Annual Budget for such Fiscal Year so long as such amendment does not result in a default under this Agreement. VRA reserves the right to require the Locality to submit to VRA from time to time or at any time a copy of any Annual Budget and any amendments to it.

ARTICLE VI

PAYMENT AND REDEMPTION OF LOCAL BOND

Section 6.1 **Payment of Local Bond and Related Amounts.** (a) Until the principal of and interest on the Local Bond and all amounts payable pursuant to this Agreement have been paid in full, the Locality agrees to pay the Trustee or VRA the following amounts as provided below:

- (1) To the Trustee, the amounts required by the Local Bond on such dates and in such manner as provided for in the Local Bond. The term

"interest," as used in the Local Bond and this Agreement, shall include Supplemental Interest, when and if payable.

- (2) To the Trustee, on VRA's demand, any amounts payable under the Local Tax Document.
 - (3) To VRA on its demand, a late payment penalty in an amount equal to two and one-half percent (2-1/2%) of any principal or interest payment on the Local Bond not paid within ten days after its due date.
 - (4) To the Trustee, the Locality's share (as determined by VRA) of the annual fees and expenses of the Trustee, less the Locality's share of earnings on the Revenue Fund, Senior Debt Service Fund and Subordinate Debt Service Fund established under the Master Indenture (as determined by VRA). Any such payment will be due and payable no later than fifteen days after VRA sends to the Locality a written bill for it.
 - (5) The Locality shall pay to VRA the reasonable costs and expenses, including reasonable attorneys' fees, if any, incurred by VRA in connection with an Event of Default or default by the Locality under this Agreement, or in connection with any amendment to or discretionary action that VRA undertakes at the request of the Locality under this Agreement or any other document related to the Series 2004 VRA Bonds or the Local Bond. Any such payment will be due and payable no later than fifteen days after VRA sends to the Locality a written bill for it.
- (b) If any failure of the Locality to pay all or any portion of any required payment of the principal of or premium, if any, or interest on the Local Bond results in a withdrawal from the Capital Reserve Fund, the Senior Debt Service Reserve Fund, the Operating Reserve Fund and/or a drawing on any CRF Credit Facility or the Senior DSRF Credit Facility, the interest rates applicable to the Local Bond shall be increased to interest rates sufficient to reimburse the Capital Reserve Fund, the Senior Debt Service Reserve Fund and/or the Operating Reserve Fund for any foregone investment earnings on the funds withdrawn therefrom and/or pay any interest, fees or penalties assessed by the CRF Credit Provider and/or the Senior DSRF Credit Provider as a result of the drawing on the CRF Credit Facility or the Senior DSRF Credit Facility, as appropriate. The increment of interest payable pursuant to the increase in rates shall be referred to as "Supplemental Interest." The Locality's obligation to pay Supplemental Interest shall commence on the date of VRA's withdrawal of funds from the Capital Reserve Fund, the Senior Debt Service Reserve Fund and/or the Operating Reserve Fund or the drawing on the CRF Credit Facility or the Senior DSRF Credit Facility occasioned by the Locality's failure to pay a required payment or portion thereof as described above (the "Supplemental Interest Commencement Date"). The Locality's obligation to pay Supplemental Interest shall terminate on the date on which the Locality remedies such failure to pay by making all payments required but outstanding since the date of such failure to pay (the "Supplemental Interest Termination Date"). From the Supplemental Interest Commencement Date to the Supplemental Interest Termination Date, Supplemental Interest shall be due and payable on the regularly scheduled interest payment dates provided for in the Local Bond. As soon as reasonably possible after the Supplemental Interest Commencement Date and before the next regularly scheduled interest payment date provided for in the Local Bond, VRA shall deliver to the Locality a certificate as to the increase in interest rates and the amount of Supplemental Interest. The certificate shall set forth in reasonable detail the basis for the increase in interest rates and the manner of calculation of the increase and the amount of Supplemental Interest. Such certificate shall be conclusive (absent manifest error) as to the interest rate increase and amount of Supplemental Interest set forth therein. In determining the interest rate increase and the amount of Supplemental Interest, VRA may use any reasonable averaging and attribution methods.

- (c) The Locality's obligations to pay the amounts described above and to make payments as scheduled under the Local Bond shall not be discharged in whole or in part by any transfer made by the Trustee from the Capital Reserve Fund, the Senior Debt Service Reserve Fund, the Operating Reserve Fund or drawing on a CRF Credit Facility or the Senior DSRF Credit Facility pursuant to the Master Indenture. The Locality will remain obligated to make its payments under the Local Bond.

Section 6.2 Redemption, Prepayment and Refunding of Local Bond. (a)

Other than as set forth in subsections (b) and (c) below, the Locality may not defease, redeem, prepay or refund the Local Bond without the written consent of VRA. Any defeasance, redemption, prepayment or refunding that is approved by VRA shall occur in such manner and in such amount, and shall be subject to such conditions as VRA shall determine.

- (b) VRA will cancel and return the Local Bond to the Locality upon satisfaction of the following conditions:

- (1) The Locality will provide not less than 90 days' prior written notice of the deposit of the funds described in (2), (3) and (4) below.

- (2) The Locality will deposit with the Trustee an amount sufficient for VRA to establish an escrow of cash and United States Treasury Securities—State and Local Government Series ("SLGs") the principal of and interest on which will be sufficient (without reinvestment) to cause the defeasance in full of the principal of and redemption premium, if any, and interest on the portion of the Series 2004 VRA Bonds allocable to the Local Bond (as determined by VRA) (the "Related Series 2004 VRA Bonds") under Article XII of the Master Indenture. The defeasance of the Related Series 2004 VRA Bonds may be either to maturity or an earlier redemption date as determined by the Locality. The Locality acknowledges that no funds in the Capital Reserve Fund, the Senior Debt Service Reserve Fund or the Operating Reserve Fund, if any, will be available to the Locality for any deposit under this subsection (b). The SLGs will have a yield not in excess of the arbitrage yield on the Series 2004 VRA Bonds.

- (3) The Locality will deposit with VRA cash in an amount sufficient, as determined by VRA, to provide for the payment of the cost of the verification report required for the defeasance of the Related Series 2004 VRA Bonds under Article XII of the Master Indenture any costs incurred by VRA in connection with the redemption, refunding and defeasance of the Related Series 2004 VRA Bonds and all amounts overdue or then due on the Local Bond (including, without limitations, any Supplemental Interest) and amounts overdue, due or to become due under Section 6.1(a)(2)-(5) of this Agreement.

- (4) The Locality will deposit with VRA cash in an amount equal to the present value of interest that would be paid on the Local Bond at a rate equal to .10 of one percent, payable semiannually, to the final maturity of the Local Bond or, if earlier, the redemption date of the Related Series 2004 VRA Bonds. Present value shall be determined by using a discount rate equal to the arbitrage yield on the Series 2004 VRA Bonds.

- (c) VRA shall permit the defeasance, redemption or prepayment of the Local Bond out of amounts remaining in the Local Account as described in Section 4.2(c); provided that any such defeasance, redemption or prepayment of the Local Bond results in the defeasance, redemption or prepayment of the corresponding principal amount and maturities of the Related Series 2004 VRA Bonds as determined by VRA.

Section 6.3 Obligations Absolute and Unconditional. The obligation of the Locality to make the payments required by the Local Bond and this Agreement from the sources pledged therefor shall be absolute and unconditional. The Locality shall

pay all such amounts without abatement, diminution or deduction (whether for taxes or otherwise) regardless of any cause or circumstance whatsoever including, without limitation, any defense, set-off, recoupment or counterclaim that the Locality may have or assert against VRA, the Trustee or any other person.

ARTICLE VII

OPERATION AND USE OF SYSTEM

Section 7.1 **Maintenance.** At its own cost and expense the Locality shall operate the System in a proper, sound and economical manner in compliance with all legal requirements and shall maintain the System in good repair and operating condition and from time to time shall make all necessary repairs, renewals and replacements.

Section 7.2 **Additions and Modifications.** At its own expense the Locality from time to time may make any additions, modifications or improvements to the System which it deems desirable and which do not materially reduce the value of the System or the structural or operational integrity of any part of the System, provided that all such additions, modifications or improvements comply with all applicable federal, state and local laws, rules, regulations, orders, permits, authorizations and requirements. All such renewals, replacements, additions, modifications and improvements shall become part of the System.

Section 7.3 **Use of System.** The Locality shall comply with all lawful requirements of any governmental authority regarding the System, whether now existing or subsequently enacted, whether foreseen or unforeseen or whether involving any change in governmental policy or requiring structural, operational or other changes to the System, irrespective of the cost of making the same.

Section 7.4 **Inspection of System and Locality's Books and Records.** VRA, the Trustee and their duly authorized representatives and agents shall have such reasonable rights of access to the System as may be necessary to determine whether the Locality is in compliance with the requirements of this Agreement and shall have the right at all reasonable times and upon reasonable prior notice to the Locality to examine and copy the Locality's books and records insofar as such books and records relate to the System.

Section 7.5 **Ownership of System.** The Locality shall not construct, reconstruct or install any part of the System on lands other than those which the Locality owns or can acquire title to or a perpetual easement over, in either case sufficient for the Locality's purposes, unless such part of the System is lawfully located in a public street or highway or is a facility located on land in which the Locality has acquired a right or interest less than a fee simple or perpetual easement and such lesser right or interest has been approved by written opinion of counsel to the Locality as sufficient for the Locality's purposes.

Section 7.6 **Sale or Encumbrance.** No part of the System shall be sold, exchanged, leased, mortgaged, encumbered or otherwise disposed of except (i) with the written consent of VRA or (ii) as provided in any one of the following subsections:

- (a) The Locality may grant easements, licenses or permits across, over or under parts of the System for streets, roads and utilities as will not adversely affect the use of the System.
- (b) The Locality may sell or otherwise dispose of property constituting part of the System if it uses the proceeds of such disposition and any other necessary funds to replace such property with property serving the same or a similar function.

- (c) The Locality may sell or otherwise dispose of property constituting part of the System with a "book value" (as determined in accordance with generally accepted accounting principles) that, when combined with the aggregate "book value" of all of the other such property sold or otherwise disposed of under this subsection during the Fiscal Year in question, will not cause the aggregate "book value" of all of such property sold or otherwise disposed of under this subsection in such Fiscal Year to exceed \$125,000. The proceeds to be received from any such sale or disposition shall be applied first to cure any default that may exist in the payment of the principal of or interest on the Local Bond.
- (d) The Locality may otherwise sell or dispose of property constituting part of the System if there is filed with VRA a certificate of the Consulting Engineer stating that such property is not necessary or useful to the operation of the System. The proceeds to be received from any such sale or disposition shall be applied first to cure any default that may exist in the payment of the principal of or interest on the Local Bond.

Section 7.7 **Collection of Revenues.** The Locality shall use its best efforts to collect all rates, fees and other charges due to it, including, without limitation, the perfection of liens on premises served by the System for the amount of all delinquent rates, fees and other charges where such action is permitted by law. The Locality shall, to the full extent permitted by law, discontinue and shut off, or cause to be discontinued and shut off, services and facilities of the System, and use its best efforts to cause to be shut off water service furnished otherwise than through the System, to customers of the System who are delinquent beyond any customary grace periods in the payment of rates, fees and other charges due to the Locality.

Section 7.8 **No Free Service.** To the extent permitted by law, the Locality shall not permit connection with or the use of the System, or furnish any services afforded by the System, without making a charge therefor based on the Locality's uniform schedule of rates, fees and charges.

Section 7.9 **No Competing Service.** To the extent permitted by law, the Locality agrees not to provide, grant any franchise to provide or give consent for anyone else to provide, any services which would compete with the System.

Section 7.10 **Mandatory Connection.** The Locality shall adopt and enforce rules and regulations, consistent with applicable laws, requiring the owner, tenant or occupant of each lot or parcel of land which is served or may reasonably be served by the System and upon which lot or parcel a building shall have been constructed for residential, commercial or industrial use, to connect such building to the System, provided, however, that such rules and regulations may permit the continued use of private water or sewage disposal systems approved by the applicable board of health or health officer by any such building already in existence at the time the services of the System become available to it upon such conditions as may be specified in such rules and regulations or until such time as such approved private water or sewage disposal system shall cease to be approved or shall require major repairs to continue to be approved, at which time such building shall be required to connect to the System.

Section 7.11 **Lawful Charges.** The Locality shall pay when due all taxes, fees, assessments, levies and other governmental charges of any kind whatsoever (collectively, the "Governmental Charges") which are (i) assessed, levied or imposed against the System or the Locality's interest in it, or (ii) incurred in the operation, maintenance, use and occupancy of the System. The Locality shall pay or cause to be discharged, or shall make adequate provision to pay or discharge, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon all or any part of the System or the Revenues (collectively, the "Mechanics' Charges"). The Locality, however, after giving VRA ten days' notice of its intention to do so, at its own expense and in its own name, may contest in good

faith any Governmental Charges or Mechanics' Charges. If such a contest occurs, the Locality may permit the same to remain unpaid during the period of the contest and any subsequent appeal unless, in VRA's reasonable opinion, such action may impair the lien on Revenues granted by this Agreement, in which event, such Governmental Charges or Mechanics' Charges promptly shall be satisfied or secured by posting with the Trustee or an appropriate court a bond in form and amount satisfactory to VRA. Upon request, the Locality shall furnish to VRA proof of payment of all Governmental Charges and Mechanics' Charges the Locality is required to pay under this Agreement.

ARTICLE VIII

INSURANCE, DAMAGE AND DESTRUCTION

Section 8.1 **Insurance.** The Locality continuously shall maintain or cause to be maintained insurance against such risks as are customarily insured against by public bodies operating systems similar in size and character to the System, including, without limitation:

- (a) Insurance in the amount of the full replacement cost of the System's insurable portions against loss or damage by fire and lightning, with broad form extended coverage endorsements covering damage by windstorm, explosion, aircraft, smoke, sprinkler leakage, vandalism, malicious mischief and such other risks as are normally covered by such endorsements (limited only as may be provided in the standard form of such endorsements at the time in use in Virginia). The determination of replacement cost shall be made, in conjunction with representatives of the Locality, by a recognized appraiser or insurer selected by the Locality and acceptable to VRA.
- (b) Comprehensive general liability insurance with a combined single limit of \$1,000,000 per year against liability for bodily injury, including death resulting therefrom, and for damage to property, including loss of its use, arising out of the ownership, maintenance, operation or use of the System.
- (c) Unless the Locality qualifies as a self-insurer under Virginia law, worker's compensation insurance.

Neither VRA nor the Trustee shall have any responsibility or obligation with respect to (i) the procurement or maintenance of insurance or the amounts or the provisions with respect to policies of insurance or (ii) the application of the proceeds of insurance.

The Locality shall provide, upon VRA's written request, a certificate or certificates of the respective insurers evidencing the fact that the insurance required by this Section is in force and effect.

Section 8.2 **Requirements of Policies.** All insurance required by Section 8.1 shall be maintained with generally recognized responsible insurance companies selected by the Locality and reasonably acceptable to VRA. Such insurance may be written with deductible amounts comparable to those on similar policies carried by other utility systems of like size and character to the System. If any such insurance is not maintained with an insurer licensed to do business in Virginia or placed under the requirements of the Virginia Surplus Lines Insurance Law, Article 5, Chapter 7.1, Title 38.1, Code of Virginia of 1950, as amended, or any successor statute, the Locality shall provide evidence reasonably satisfactory to VRA that such insurance is enforceable under Virginia law.

Section 8.3 **Notice of Damage, Destruction or Condemnation.** In case of (i) any damage to or destruction of any material part of the System, (ii) a taking of all or any part of the System or any right in it under the exercise of the power of eminent domain, (iii) any loss of the System because of failure of title, or (iv) the

commencement of any proceedings or negotiations which might result in such a taking or loss, the Locality shall give prompt notice to VRA describing generally the nature and extent of such damage, destruction, taking, loss, proceedings or negotiations.

Section 8.4 **Damage and Destruction.** If all or any part of the System is destroyed or damaged by fire or other casualty, and the Locality shall not have exercised its option, if such option is available, to redeem the outstanding Local Bond pursuant to Section 6.2, the Locality shall restore promptly the property damaged or destroyed to substantially the same condition as before such damage or destruction, with such alterations and additions as the Locality may determine and which will not impair the capacity or character of the System for the purpose for which it then is being used or is intended to be used. The Locality may apply so much as may be necessary of the Net Proceeds of insurance received on account of any such damage or destruction to payment of the cost of such restoration, either on completion or as the work progresses. If such Net Proceeds are not sufficient to pay in full the cost of such restoration, the Locality shall pay so much of the cost as may be in excess of such Net Proceeds.

Section 8.5 **Condemnation and Loss of Title.** If title to or the temporary use of all or any part of the System shall be taken under the exercise of the power of eminent domain or lost because of failure of title, and the Locality shall not have exercised its option, if such option is available, to redeem the outstanding Local Bond pursuant to Section 6.2, the Locality shall cause the Net Proceeds from any such condemnation award or from title insurance to be applied to the restoration of the System to substantially its condition before the exercise of such power of eminent domain or failure of title. If such Net Proceeds are not sufficient to pay in full the cost of such restoration, the Locality shall pay so much of the cost as may be in excess of such Net Proceeds.

ARTICLE IX

SPECIAL COVENANTS

Section 9.1 **Tax Covenants.** The Locality agrees that it will not directly or indirectly use or permit the use of any of the proceeds of the Local Bond or any other of its funds, in such manner as would, or enter into, or allow any other person or entity to enter into, any arrangement, formal or informal, that would, or take or omit to take any other action that would, cause interest on the Local Bond or any Series 2004 VRA Bond to be includable in gross income for federal income tax purposes or to become a specific item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. The Locality acknowledges having read the Local Tax Document and agrees to perform all duties imposed upon it thereby. Insofar as the Local Tax Document imposes duties and responsibilities on the Locality, including the payment of any arbitrage rebate in respect of the Local Bond or the Series 2004 VRA Bonds, they are specifically incorporated by reference into this Agreement. The Locality also consents to the calculation of any "rebate amount" to be paid with respect to the Local Bond by a rebate calculation service selected by VRA.

Section 9.2 **Maintenance of Existence.** The Locality shall maintain its existence as a political subdivision under Virginia law, and shall not dissolve or otherwise dispose of all or substantially all of its assets or consolidate or merge with or into another entity without VRA's prior written consent, which consent will not be unreasonably withheld.

Section 9.3 **Financial Records and Statements.** The Locality shall maintain proper books of record and account in which proper entries shall be made in accordance with generally accepted accounting principles, consistently applied, of all

its business and affairs related to the System. The Locality shall have an annual audit of the System's financial condition made by an independent certified public accountant within 120 days after the end of each Fiscal Year and shall furnish to VRA copies of the report of such accountant immediately after such report is submitted to the Locality. Such report shall include statements in reasonable detail, certified by such accountant, reflecting the System's financial position as of the end of such Fiscal Year and the result of the System's operations and changes in the financial position of the Locality's funds for the Fiscal Year. The Locality shall also furnish to VRA a certificate or report of such accountant to the effect that, during the course of such accountant's regular examination of the System's financial condition, nothing came to such accountant's attention which would constitute an Event of Default, or which with the giving of notice or lapse of time, or both, would constitute such an Event of Default.

Section 9.4 **Certificate as to No Default.** The Locality shall deliver to VRA, within 150 days after the close of each Fiscal Year, a certificate signed by a Local Representative stating that, during such year and as of the date of such certificate, no event or condition has happened or existed, or is happening or existing, which constitutes, or which, with notice or lapse of time, or both, would constitute, an Event of Default, or if such an event or condition has happened or existed, or is happening or existing, specifying the nature and period of such event or condition and what action the Locality has taken, is taking or proposes to take to rectify it.

Section 9.5 **Additional Indebtedness.** The Locality shall not incur any indebtedness or issue any bonds, notes or other evidences of indebtedness secured by a pledge of Revenues, except Subordinate Bonds and Parity Bonds.

Section 9.6 **Parity Bonds.** (a) The Locality may issue bonds, notes or other evidences of indebtedness ("Parity Bonds") ranking on parity with the Local Bond and the Existing Parity Bonds with respect to the pledge of Revenues to (i) pay the cost of the acquisition or construction of improvements, extensions, additions or replacements to equipment or betterments of and any property, rights or easements deemed by the Locality to be necessary, useful or convenient for the System or to refund Subordinate Bonds, (ii) refund some or all of the Local Bond (subject to the conditions of Section 6.2), the Prior Bonds, the Existing Parity Bonds or the Parity Bonds or (iii) effect some combination of (i) and (ii), provided in each case the following conditions are satisfied. Before any Parity Bonds are issued or delivered, the Locality shall deliver to VRA the following in form and substance satisfactory to VRA:

- (1) Certified copies of all resolutions and ordinances of the Locality authorizing the issuance of the Parity Bonds.
- (2) A certificate of a Local Representative setting forth the purposes for which the Locality is issuing the Parity Bonds and the manner in which the Locality will apply the proceeds from the issuance and sale of the Parity Bonds.
- (3) If the Parity Bonds are authorized for any purpose other than the refunding of the Local Bond, the Prior Bonds, the Existing Parity Bonds or the Parity Bonds, a certificate of the Consulting Engineer (who is not a Local Engineer) to the effect that (i) the improvements or property which the proceeds from the issuance of the Parity Bonds will finance or refinance will be a part of, or are necessary, useful or convenient for, the System, (ii) the funds available to the Locality from the issuance of the Parity Bonds and other specified sources will be sufficient to pay the estimated cost of such improvements or property (or refinancing the same), (iii) the period of time which will be required to complete such improvements or property, and (iv) (A) the failure to make such improvements or acquire or construct such property will result in an interruption or reduction, or the continuance of an interruption or reduction, of Revenues, or (B) during the first two complete Fiscal Years following the completion of the improvements or the acquisition or

construction of the property (or refinancing the same), the projected Net Revenues Available for Debt Service will satisfy the rate covenant of Section 5.2. In providing this certificate, the Consulting Engineer may take into consideration future System rate increases, provided that such rate increases have been duly approved by the Locality's governing body and any other person and entity required to give approval for the rate increase to become effective. In addition, the Consulting Engineer may take into consideration additional future Revenues to be derived under then existing contractual agreements entered into by the Locality and from reasonable estimates of growth in the Locality's customer base.

- (4) If the Parity Bonds are authorized solely to refund any Local Bond, the Prior Bonds, the Existing Parity Bonds or Parity Bonds either (i) a certificate or report of an independent certified public accountant that the refunding Parity Bonds will have annual debt service requirements in each of the years the Local Bond, the Prior Bonds, the Existing Parity Bonds or the Parity Bonds to be refunded (the "Refunded Bonds") would have been outstanding which are lower than the annual debt service requirements in each such year on the Refunded Bonds, or (ii) a certificate of the Consulting Engineer to the effect that in the Consulting Engineer's opinion, during the first two complete Fiscal Years following the issuance of the refunding Parity Bonds, the projected Net Revenues Available for Debt Service will satisfy the rate covenant of Section 5.2. In providing the certificate described in clause (ii), the Consulting Engineer may take into account the positive factors described in the last two sentences of subsection (a)(3) of this Section.
- (5) If requested by VRA, an opinion of nationally-recognized bond counsel, subject to customary exceptions and qualifications, approving the form of the resolution authorizing the issuance of the Parity Bonds and stating that its terms and provisions conform with the requirements of this Agreement, that the certificates and documents delivered to VRA constitute compliance with the provisions of this Section, and that the issuance of the Parity Bonds will (i) have no adverse effect on the exclusion of the interest on the Local Bond or the Series 2004 VRA Bonds from gross income for federal income tax purposes and (ii) not cause interest on the Local Bond or the VRA Bonds to become a specific item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations.
- (b) If the Locality is unable or unwilling to satisfy the conditions set forth in subsection (a) to the issuance and delivery of any issue of Parity Bonds, VRA may determine, in its sole discretion, to waive any or all of such conditions.
- (c) The Locality may not issue Parity Bonds or any other obligations or indebtedness to refund or refinance some or all of the Local Bond without VRA's prior written consent except as permitted in Section 6.2(b).

Section 9.7 **Further Assurances.** The Locality shall to the fullest extent permitted by law pass, make, do, execute, acknowledge and deliver such further resolutions, acts, deeds, conveyances, assignments, transfers and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming the rights, Revenues and other funds pledged or assigned by this Agreement, or as may be required to carry out the purposes of this Agreement. The Locality shall at all times, to the fullest extent permitted by law, defend, preserve and protect the pledge of the Revenues and other funds pledged under this Agreement and all rights of VRA under this Agreement against all claims and demands of all persons.

Section 9.8 **Other Indebtedness.** The Locality agrees to pay when due all amounts required by any Subordinate Bonds, Parity Bonds, Existing Parity Bonds and Prior Bonds and to perform all of its obligations in connection with them.

Section 9.9 **Assignment by Locality.** The Locality may not assign its rights and obligations under the Local Bond and this Agreement without the prior written consent of VRA.

Section 9.10 **[intentionally omitted]**

Section 9.11 **Continuing Disclosure.** (a) For purposes of this section, the following terms and phrases shall have the following meaning:

"Annual Financial Information" with respect to any Fiscal Year for the Locality means the following:

- (i) the financial statements (consisting of at least a balance sheet and statement of revenues and expenses) of the System, or, if not available, the financial statements (consisting of at least a balance sheet and a statement of revenues and expenses) of the Locality, which financial statements must be (A) prepared annually in accordance with generally accepted accounting principles in effect from time to time consistently applied (provided that nothing in this clause (A) will prohibit the Locality after the date of this Agreement from changing such other principles so as to comply with generally accepted accounting principles as then in effect or to comply with a change in applicable law) and (B) audited by an independent certified public accountant or firm of such accountants in accordance with generally accepted auditing standards as in effect from time to time (provided that if audited financial statements are not available for filing when required by this Section or the Rule (as defined herein), unaudited financial statements will be filed and audited financial statements will be filed as soon as possible thereafter); and
- (ii) operating data of the type set forth in Exhibit F.

"Dissemination Agent" shall mean any person, reasonably acceptable to VRA, whom the Locality contracts in writing to perform its obligations as provided in subsection (h) of this section.

"Final Official Statement" shall have the meaning set forth in the Rule.

"Make Public" or **"Made Public"** shall have the meaning set forth in subsection (c) of this Section.

"Material Locality" shall mean the Locality if the aggregate outstanding principal amount of the Local Bond and any other of the Locality's local bonds purchased with proceeds of the VRA Bonds represent fifteen percent (15%) or more of the outstanding aggregate principal amount of the local bonds purchased with proceeds of the VRA Bonds.

"Pooled Loan Bonds" means all of the bonds issued by VRA under the Master Indenture.

"Rule" means Rule 15c2-12, as it may be amended from time to time, under the Securities Exchange Act of 1934 and any similar rules of the SEC relating to disclosure requirements in the offering and sale of municipal securities, all as in effect from time to time.

"SEC" means the U.S. Securities and Exchange Commission.

- (b) The Locality shall Make Public or cause to be Made Public:

- (1) Within seven months after the end of the Locality's Fiscal Year (commencing with the Fiscal Year in which the Series 2004 Closing Date occurs), Annual Financial Information for such Fiscal Year as of the end of which the Locality constitutes a Material Locality. Annual Financial Information may be set forth in the documents Made Public or may be included by reference in a document Made Public to any document previously filed with each NRMSIR (as defined in subsection (c) below), the Virginia SID (as defined in subsection (c) below), if any, the Municipal Securities Rulemaking Board ("MSRB") or the SEC. If the document referred to is a Final Official Statement, then it must be available from the MSRB.

- (2) In a timely manner, notice of any failure by the Locality to Make Public or cause to be Made Public Annual Financial Information pursuant to the terms of part (1) of this subsection.

- (c) For purposes of this Section, information and notices shall be deemed to have been "Made Public" if transmitted as follows:

- (1) In the case of Annual Financial Information, to VRA, to the Trustee and to:

(A) each nationally recognized municipal securities information repository ("NRMSIR") approved as such by the SEC from time to time, at its then current address, including the following NRMSIRs existing as of the date of this Agreement so long as such entities remain NRMSIRs:

Bloomberg Municipal Repository

100 Business Park Drive
Skillman, New Jersey 08558
Phone: (609) 279-3225
Fax: (609) 279-5962
http://www.bloomberg.com/markets/muni_contactinfo.html
Email: Munis@Bloomberg.com

DPC Data Inc.

One Executive Drive
Fort Lee, NJ 07024
Phone: (201) 346-0701
Fax: (201) 947-0107
<http://www.dpcdata.com>
Email: nrmsir@dpcdata.com

FT Interactive Data

Attn: NRMSIR
100 William Street
New York, New York 10038
Phone: (212) 771-6999
Fax: (212) 771-7390 (Secondary Market Information)
(212) 771-7391 (Primary Market Information)
<http://www.interactivedata.com>
Email: NRMSIR@FTID.com

Standard & Poor's Securities Evaluations, Inc.

55 Water Street
45th Floor
New York, NY 10041
Phone: (212) 438-4595
Fax: (212) 438-3975
www.jjkenny.com/jjkenny/pser_descrip_data_rep.html
Email: nrmsir_repository@sandp.com

(B) any applicable state-based information depository that exists from time to time (the "Virginia SID") for the purpose of receiving information concerning municipal securities and is generally recognized as the state information depository for the Commonwealth of Virginia, at its then current address.

- (2) In the case of information required by subsection (b)(2) of this Section, to VRA, the Trustee and to:

(A) Municipal Securities Rulemaking Board
1900 Duke Street, Suite 600
Alexandria, Virginia 22314
Phone: (703) 797-6600; and

(B) the Virginia SID.

- (d) the Locality shall also notify VRA as promptly as possible upon becoming aware of any of the following events that may from time to time occur with respect to the Local Bond:

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;

- (4) unscheduled draws on any credit enhancement maintained with respect to the Local Bond reflecting financial difficulties;
 - (5) substitution of credit or liquidity providers, or their failure to perform;
 - (6) adverse tax opinions or events affecting the tax-exempt status of interest on the Local Bond;
 - (7) modifications to rights of the holders of the Local Bond;
 - (8) bond calls;
 - (9) defeasances;
 - (10) release, substitution, or sale of property securing repayment of the Local Bond; and
 - (11) rating changes.
- (e) Notwithstanding anything in this Agreement to the contrary, the Locality need not comply with the provisions of subsections (a) through (d) above unless and until VRA has notified the Locality that it satisfied the objective criteria for a Material Locality as of the end of VRA's immediately preceding fiscal year.
- (f) The obligations of the Locality under this Section will terminate upon the redemption, defeasance (within meaning of the Rule) or payment in full of all of the VRA Bonds.
- (g) (1) If the Locality fails to comply with any covenant or obligation set forth in this Section, any holder (within the meaning of the Rule) of VRA Bonds then Outstanding may, by notice to the Locality, proceed to protect and enforce its rights and the rights of the other holders by an action for specific performance of the Locality's covenants or obligations set forth in this Section.
- (2) Notwithstanding anything herein to the contrary, any failure of the Locality to comply with any disclosure obligation specified in this Agreement (i) shall not be deemed to constitute an Event of Default under this Agreement and (ii) shall not give rise to any right or remedy other than that described in part (1) of this subsection.
- (h) The Locality may from time to time disclose certain information and data in addition to that required under this Section. Notwithstanding anything in this Agreement to the contrary, the Locality shall not incur any obligation to continue to provide, or to update, such additional information or data.
- (i) The Locality may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligation to cause to be made Public the information described in this Section, and may discharge any such Agent, with or without appointing a successor Dissemination Agent.

ARTICLE X

DEFAULTS AND REMEDIES

Section 10.1 **Events of Default.** Each of the following events shall be an "Event of Default":

- (a) The failure to make any payment or deposit required by this Agreement within fifteen days after its due date.

- (b) The failure to pay any installment of interest (including Supplemental Interest) on the Local Bond when due.
- (c) The failure to pay any installment of principal of or premium, if any, on the Local Bond when due (whether at maturity, by mandatory or optional redemption, by acceleration or otherwise).
- (d) The Locality's failure to perform or observe any of the other covenants, agreements or conditions of the Local Bond or this Agreement and the continuation of such failure for a period of sixty days after written notice specifying such failure and requesting that it be cured is given to the Locality by VRA, or, in the case of any such failure which cannot with diligence be cured within such sixty day period, the Locality's failure to proceed promptly to commence to cure the failure and thereafter to prosecute the curing of the failure with diligence.
- (e) Any warranty, representation or other statement by or on behalf of the Locality contained in this Agreement or in any instrument furnished in compliance with or in reference to this Agreement or in connection with the issuance and sale of Local Bond is false and misleading in any material respect.
- (f) An order or decree shall be entered, with the Locality's consent or acquiescence, appointing a receiver or receivers of the System or any part of it or of the Revenues, or if such order or decree, having been entered without the Locality's consent or acquiescence, shall not be vacated or discharged or stayed on appeal within sixty days after its entry.
- (g) Any proceeding shall be instituted, with the Locality's consent or acquiescence, for the purpose of effecting a composition between the Locality and its creditors or for the purpose of adjusting such creditors' claims under any federal or state statute now or hereafter enacted, if such claims are under any circumstances payable from the Revenues.
- (h) Any bankruptcy, insolvency or other similar proceeding shall be instituted by or against the Locality under any federal or state bankruptcy or insolvency law now or hereinafter in effect and, if instituted against the Locality is not dismissed within sixty days after filing.
- (i) The occurrence of a default by the Locality under the terms of any Subordinate Bonds, the Prior Bonds, Existing Parity Bonds or Parity Bonds and the failure to cure such default or obtain a waiver thereof within any period of time permitted thereunder.

Section 10.2 **Acceleration.** Upon the occurrence and continuation of an Event of Default, VRA may, by notice in writing delivered to the Locality declare the entire unpaid principal of and interest on the Local Bond due and payable. Upon any such declaration, the Locality shall immediately pay to the Trustee the entire unpaid principal of and accrued interest on the Local Bond, but only from the Revenues and other funds specifically pledged for such purpose. VRA may in its discretion waive an Event of Default and its consequences and rescind any acceleration of maturity of principal of and interest on the Local Bond.

Section 10.3 **Other Remedies.** Upon the occurrence and continuation of an Event of Default, VRA may proceed to protect and enforce its rights by mandamus or other action, suit or proceeding at law or in equity for specific performance of any agreement contained in the Local Bond or this Agreement. No remedy conferred by this Agreement upon or reserved to the registered owners of the Local Bond is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and shall be in addition to any other remedy given to VRA under this Agreement or now or hereafter existing at law or in equity or by statute.

Section 10.4 **Delay and Waiver.** No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence in it, and every such right and power may be exercised from time to time and as often as may be deemed expedient. No waiver of any default or Event of Default under this Agreement shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent to it.

Section 10.5 **State Aid Intercept.** The Locality acknowledges that VRA may take any and all actions available to it under the laws of the Commonwealth of Virginia, including Section 62.1-216.1 of the Act, to secure payment of the principal of and premium, if any, and interest on the Local Bond, if payment of such principal, premium and interest shall not be paid when the same shall become due and payable.

ARTICLE XI

MISCELLANEOUS

Section 11.1 **Successors and Assigns.** This Agreement shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

Section 11.2 **Amendments.** VRA and the Locality shall have the right to amend from time to time any of this Agreement's terms and conditions, provided that all amendments shall be in writing and shall be signed by or on behalf of VRA and the Locality.

Section 11.3 **Limitation of Locality's Liability.** Notwithstanding anything in the Local Bond or this Agreement to the contrary, the Locality's obligations hereunder and under the Local Bond are not its general obligations, but are limited obligations payable solely from the Revenues which are specifically pledged for such purpose. Neither the Local Bond nor this Agreement shall be deemed to create or constitute a debt or a pledge of the faith and credit of the Locality and the Locality shall not be obligated to pay the principal of or premium, if any, or interest on the Local Bond or other costs incident to them except from the Revenues and other funds pledged for such purpose. In the absence of fraud or misconduct, no present or future director, official, officer, employee or agent of the Locality shall be liable personally in respect of this Agreement or the Local Bond or for any other action taken by such individual pursuant to or in connection with the financing provided for in this Agreement or the Local Bond.

Section 11.4 **Applicable Law.** This Agreement shall be governed by Virginia law.

Section 11.5 **Severability.** If any clause, provision or section of this Agreement shall be held illegal or invalid by any court, the illegality or invalidity of such clause, provision or section shall not affect the remainder of this Agreement which shall be construed and enforced as if such illegal or invalid clause, provision or section had not been contained in this Agreement. If any agreement or obligation contained in this Agreement is held to be in violation of law, then such agreement or obligation shall be deemed to be the agreement or obligation of VRA and the Locality, as the case may be, only to the extent permitted by law.

Section 11.6 **Notices.** Unless otherwise provided for herein, all demands, notices, approvals, consents, requests, opinions and other communications under the Local Bond or this Agreement shall be in writing and shall be deemed to have been given when delivered in person or mailed by first class registered or certified mail, postage prepaid, addressed (a) if to the Locality, at P. O. Box 1252, 20 East Gay Street (22802), Harrisonburg, Virginia 22803, Attention: County Administrator; (b) if to VRA, at 707 East Main Street, Suite 1350, Richmond, Virginia 23219, Attention:

Executive Director; or (c) if to the Trustee, at 919 East Main Street, Richmond, Virginia 23219, Attention: Corporate Trust Department. A duplicate copy of each demand, notice, approval, consent, request, opinion or other communication given by any party named in this Section shall also be given to each of the other parties named. VRA, the Locality and the Trustee may designate, by notice given hereunder, any further or different addresses to which subsequent demands, notices, approvals, consents, requests, opinions or other communications shall be sent or persons to whose attention the same shall be directed.

Section 11.7 **Right to Cure Default.** If the Locality shall fail to make any payment or to perform any act required by it under the Local Bond or this Agreement, VRA or the Trustee, without prior notice to or demand upon the Locality and without waiving or releasing any obligation or default, may (but shall be under no obligation to) make such payment or perform such act. All amounts so paid by VRA or the Trustee and all costs, fees and expenses so incurred shall be payable by the Locality as an additional obligation under this Agreement, together with interest thereon at the rate of fifteen percent (15%) per year until paid. The Locality's obligation under this Section shall survive the payment of the Local Bond.

Section 11.8 **Headings.** The headings of the several articles and sections of this Agreement are inserted for convenience only and do not comprise a part of this Agreement.

Section 11.9 **Term of Agreement.** This Agreement shall be effective upon its execution and delivery, provided that the Local Bond previously or simultaneously has been executed and delivered. Except as otherwise specified, the Locality's obligations under the Local Bond and this Agreement shall expire upon payment in full of the Local Bond and all other amounts payable by the Locality under this Agreement.

Section 11.10 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

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WITNESS the following signatures, all duly authorized.
VIRGINIA RESOURCES AUTHORITY

By: _____
Darrell V. Hill
Executive Director

COUNTY OF ROCKINGHAM, VIRGINIA

By: _____
Chairman, Board of Supervisors of the County of
Rockingham, Virginia

The Trustee, by the execution hereof, accepts the duties imposed on it by
this Agreement.
SUNTRUST BANK, as Trustee

By: _____
Its: _____

EXHIBIT A
FORM OF LOCAL BOND
EXHIBIT B
DESCRIPTION OF PROJECT
EXHIBIT C

PULASKI COUNTY PUBLIC SERVICE AUTHORITY
SOURCES AND USES OF FUNDS

Sources	
Par Amount	
Plus Net Premium	
Plus Estimated Earnings	
	Total
Uses	
VRA Costs of Issuance	
	Total

EXHIBIT D
FORM OF REQUISITION

Requisition No.

Date:

SunTrust Bank, as Trustee
Attention: Corporate Trust Department
919 East Main Street
Richmond, Virginia 23219

This Requisition is submitted in connection with the Financing Agreement dated as of June 1, 2004 (the "Financing Agreement") between the Virginia Resources Authority and the Pulaski County Public Service Authority (the "Locality"). Unless otherwise defined in this Requisition, each capitalized term used herein shall have the meaning given it under Article I of the Financing Agreement. The undersigned Local Representative hereby requests payment of the following amounts from the Local Account established for the Locality in the Series 2004 Acquisition Fund established under the Second Supplemental Series Indenture.

Payee:

Address:

Amount to be Paid:

Purpose (in reasonable detail) for which obligations(s) to be paid were incurred:

If requested, attached hereto is an invoice (or invoices) relating to the items for which payment is requested.

The undersigned certifies that (i) the amounts requested by this Requisition will be applied solely and exclusively to the payment, or the reimbursement of the Locality for its payment, of Project Costs of the construction portion of the Project, (ii) no notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable under the Requisition to any of the persons, firms or corporations named in it has been received, or if any notice of any such lien, attachment or claim has been received, such lien, attachment or claim has been released or discharged or will be released or discharged upon payment of the Requisition, and (iii) this Requisition contains no items representing payment on account of any retained percentage entitled to be retained at this date.

If this Requisition includes payments for labor or to contractors, builders or materialmen, the attached Certificate of Consulting Engineer must be completed. If this Requisition includes payments for any lands or easements, rights or interest in or relating to lands, the attached Certificate of the Consulting Engineer must be completed and there must be attached to this Requisition a certificate signed by a Local Representative stating that upon payment therefor the Locality will have title in fee simple to, or easements, rights or interests sufficient for the purposes of the construction portion of the Project over or through such lands.

The Locality has agreed in the Financing Agreement that any amounts it receives pursuant to this Requisition will be (i) immediately applied to reimburse the Locality for Project Costs it has already

incurred and paid or (ii) actually spent to pay Project Costs not later than 5 banking days after receipt.

Local Representative

CERTIFICATE OF CONSULTING ENGINEER

The undersigned Consulting Engineer for the Locality hereby certifies that (i) insofar as the amounts covered by this Requisition include payments for labor or to contractors, builders or materialmen, such work was actually performed or such materials, supplies or equipment were actually furnished or installed in or about the Project, and (ii) insofar as the amounts covered by the Requisition include payments for land or easements, rights or interests in or relating to lands, such lands, easements, rights or interests are being acquired and are necessary or convenient for the construction of the construction portion of the Project.

Date: _____

Consulting Engineer

EXHIBIT E

EXISTING PARITY BONDS

None.

PRIOR BONDS

None.

EXHIBIT F

OPERATING DATA

- Description of Locality.* A description of the Locality including a summary description of the System.
- Debt.* A description of the terms of the Locality's outstanding debt including a historical summary of outstanding debt and a summary of annual debt service on outstanding debt as of the end of the preceding fiscal year. The annual disclosure should also include (to the extent not shown in the latest audited financial statements) a description of contingent obligations as well as pension plans administered by the Locality and any unfunded pension liabilities.
- Financial Information and Operating Data.* Financial information for the System as of the end of the preceding fiscal year, including a description of revenues and expenditures, largest users, a summary of

rates, fees and other charges of the System, and a historical summary of debt service coverage.

EXHIBIT G

CERTIFICATE OF COUNSEL TO THE LOCALITY

EXHIBIT H

OPINION OF BOND COUNSEL TO THE LOCALITY

LOCAL BOND SALE AGREEMENT

This **LOCAL BOND SALE AGREEMENT** is made as of this ____ day of May, 2004 (this "Agreement") between the **VIRGINIA RESOURCES AUTHORITY ("VRA")** and the **COUNTY OF ROCKINGHAM, VIRGINIA** (the "Locality").

VRA hereby offers to enter into this Agreement with the Locality, which, upon the Locality's written acceptance of this offer, will be binding upon VRA and the Locality. This offer is made subject to the Locality's written acceptance hereof this day on or before 6:00 p.m. Richmond, Virginia time, and, if not so accepted, will be subject to withdrawal by VRA at any time prior to the acceptance hereof by the Locality.

Subject to the terms and conditions and in reliance upon the representations, warranties and agreements set forth or incorporated herein, VRA hereby agrees to purchase from the Locality, and the Locality agrees to sell and deliver to VRA, all, but not less than all, of the \$[_____] aggregate principal amount of the Locality's Water and Sewer System Revenue Bond, Series 2004 (the "Local Bond"). The principal amount of the Local Bond, its dated date, maturities and interest rates per annum shall be as set forth in Appendix A hereto.

The Locality will be issuing the Local Bond pursuant to an ordinance and a resolution adopted April __, 2004 (the "Authorization"). Prior to or concurrently with the acceptance hereof by the Locality, the Locality has delivered to VRA a copy of the Authorization as adopted.

The purchase price of the Local Bond shall be \$_____, and has been determined as follows: By adding to the par amount of the Local Bond \$[_____] the Locality's share of the original issue premium on the VRA Bonds (as defined below) (\$_____) and by subtracting from the par amount of the Local Bond the Locality's share of VRA's costs of issuance (including Underwriter's discount) (Total: \$_____).

By 10:00 a.m., Richmond, Virginia, time, on June __, 2004, or such other later date or time to which VRA may specify in writing (the "Closing Date"), the Locality will cause the Local Bond and the documents described in Section 3.2 of the Financing Agreement dated as of June 1, 2004 (the "Financing Agreement"), to be entered into between VRA and the Locality to be delivered to VRA at the offices of McGuireWoods LLP, Richmond, Virginia, or at such other place as VRA may specify in writing. The Local Bond shall be dated _____, 2004 and registered in the name of VRA. The purchase price of the Local Bond shall be deposited and applied to the purchase of the Local Bond as provided in Section 4.1 of the Financing Agreement.

The representations and warranties of the Locality set forth in Section 2.2 of

the _____, 2004 draft of the Financing Agreement are incorporated herein and are accurate as of the date hereof.

The obligation of VRA to purchase the Local Bond is subject to the accuracy of the representations and warranties of the Locality incorporated into this Agreement, in each case as of the date of this Agreement and the Closing Date, and is also subject, in the discretion of VRA, to the following additional conditions precedent:

- (a) The acceptance of, and payment of the full purchase price for, VRA's Infrastructure Revenue Bonds (Virginia Pooled Financing Program), Series 2004A (the "VRA Bonds"), by the initial purchasers thereof. It is understood that the source of funds to pay the purchase price of the Local Bond is a portion of the proceeds of the VRA Bonds.
- (b) VRA shall have received each of the documents specified in Section 3.2 of the Financing Agreement.

Any notice or other communication to be given to VRA or the Locality under this Agreement may be given by mailing to the following address:

VRA: Virginia Resources Authority
707 East Main Street, Suite 1350
Richmond, Virginia 23219
Attention: Executive Director

LOCALITY: County of Rockingham, Virginia
P. O. Box 1252
20 East Gay Street (22802)
Harrisonburg, Virginia 22803
Attention: County Administrator

VRA will pay, or cause to be paid, from the proceeds of the VRA Bonds all expenses incident to the performance of its obligations under and the fulfillment of the conditions imposed by this Agreement, including, but not limited to: (i) the cost, if any, of preparing and delivering the VRA Bonds, (ii) the cost of preparing, printing and delivering the Preliminary Official Statement and the Official Statement for the VRA Bonds and any amendment or supplement to the Official Statement; (iii) the fees and expenses of VRA Bond Counsel; and (iv) all other costs and expenses incurred by VRA in connection with the issuance, sale and delivery of the VRA Bonds. All expenses of the Locality, including, but not limited to the fees and disbursements of Counsel and Bond Counsel to the Locality will be paid by the Locality from the purchase price of the Local Bond or other funds of the Locality.

In case any one or more of the provisions of this Agreement, for any reason, is held to be illegal or invalid, such illegality or invalidity will not affect any other provisions of this Agreement, and this Agreement will be construed and enforced as if such illegal or invalid provisions had not been contained in it.

This Agreement may be executed in counterparts will be construed and enforced in accordance with the laws of the Commonwealth of Virginia.

[SIGNATURE PAGES FOLLOW]

VIRGINIA RESOURCES AUTHORITY

By:

Darrell V. Hill
Executive Director

[VRA SIGNATURE PAGE TO LOCAL BOND SALE AGREEMENT]

Accepted and agreed to this____ day of May, 2004, at
_____ [a.m.] [p.m].
**COUNTY OF ROCKINGHAM,
VIRGINIA**

By:

Its: Chairman, Board of Supervisors

[LOCALITY SIGNATURE PAGE TO LOCAL BOND SALE AGREEMENT]

R-1

UNITED STATES OF AMERICA
COMMONWEALTH OF VIRGINIA
COUNTY OF ROCKINGHAM, VIRGINIA
TAX-EXEMPT REVENUE BONDS
SERIES 2004

MATURITY DATE

April 1, 20__

DATED DATE

June __, 2004

REGISTERED OWNER: VIRGINIA RESOURCES AUTHORITY
PRINCIPAL AMOUNT: ONE MILLION _____ (\$_____)

The COUNTY OF ROCKINGHAM, VIRGINIA (the "County"), for value received, promises to pay, solely from the sources described below and pledged to the payment of this Bond, to the registered owner of this Bond or legal representative, the principal sum stated above, together with interest thereon at the rates stated below, as set forth below.

This Bond shall be payable as follows. Principal on this Bond shall be due and payable in annual installments in the amounts and on the dates set forth in Schedule I attached hereto.

Interest on this Bond shall be calculated from May __, 200. Such interest shall be due and payable in semi-annual installments commencing on October 1, 2004, and continuing on each April 1st and October 1st thereafter, until this Bond shall be paid in full, in the amounts and at the rates set forth in Schedule I attached hereto. Interest on this Bond shall be computed on the basis of a year of 360 days and twelve 30-day months.

Subject to the provisions of the Financing Agreement, dated as of June 1, 2004 (the "Financing Agreement"), between the Virginia Resources Authority ("VRA") and the County, so long as this Bond is held by VRA or the Trustee (as defined in the Financing Agreement), interest is payable by check or draft mailed to or at the direction of the registered owner of this Bond at the address that appears on the 15th day of the month preceding each interest payment date on the registration books kept by the County Treasurer, as Registrar. Principal of and premium, if any, and interest on this Bond are payable in lawful money of the United States of America. In case the date fixed for the payment of principal of or interest on or the redemption of this Bond shall not be a Business Day (as defined below) then payment of principal, premium, if any, and interest need not be made on such date, but may be made on the next succeeding Business Day, and, if made on such next succeeding Business Day, no additional interest shall accrue for the period after such maturity date or date fixed for the payment of interest or redemption. "Business Day" means any Monday, Tuesday, Wednesday, Thursday or Friday on which commercial banking institutions generally are open for business in New York and Virginia.

If any installment of principal of and interest on this Bond is not paid to the registered owner of this Bond within ten days after its due date, the County shall pay to VRA a late payment charge in an amount equal to two and one-half percent (2 ½ %) of the overdue installment.

If any failure of the County to pay all or any portion of any required payment of the principal of or premium, if any, or interest on this Bond results in a withdrawal from the Capital Reserve Fund, the Senior Debt Service Reserve Fund and/or the Operating Reserve Fund (as defined in the Financing Agreement) and/or a drawing on any CRF Credit Facility and/or Senior DSRF Credit Facility (as defined in the Financing Agreement), the interest rates applicable to this Bond shall be increased to interest rates sufficient to reimburse the Capital Reserve Fund, the Senior Debt Service Reserve Fund and/or the Operating Reserve Fund for any foregone investment earnings on the funds withdrawn therefrom and/or pay any interest, fees or penalties assessed by the CRF Credit Provider and/or the Senior DSRF Credit Provider (as defined in the Financing Agreement) as a result of the drawing on the CRF Credit Facility and/or Senior DSRF Credit Facility. The increment of interest payable pursuant to the increase in rates shall be referred to as "Supplemental Interest". The County's obligation to pay Supplemental Interest shall commence on the date of VRA's withdrawal of funds from the Capital Reserve Fund, the Senior Debt Service Reserve Fund and/or the Operating Reserve Fund, or the drawing on the CRF Credit Facility and/or Senior DSRF Credit Facility occasioned by the County's failure to pay a required payment or portion thereof as described above (the "Supplemental Interest Commencement Date"). The County's obligation to pay Supplemental Interest shall terminate on the date on which the County remedies such failure to pay by making all payments required but outstanding since the date of such failure to pay (the "Supplemental Interest Termination Date"). From the Supplemental Interest Commencement Date to the Supplemental Interest Termination Date, Supplemental Interest shall be due and payable on the regularly scheduled interest payment dates provided for in this Bond. As soon as reasonably possible after the Supplemental Interest Commencement Date and before the next regularly scheduled interest payment date provided for in this Bond, the VRA shall deliver to the County a certificate as to the increase in interest rates and the amount of Supplemental Interest. The certificate shall set forth in reasonable detail the basis for the increase in the interest rates and the manner of calculation of the increase and the amount of Supplemental Interest. Such certificate shall be conclusive (absent manifest error) as to the interest rate increase and amount of Supplemental Interest set forth therein. In determining the interest rate increase and the amount of Supplemental Interest, the VRA may use any reasonable averaging and attribution methods.

The issuance of this Bond has been duly authorized by the Board of Supervisors of the County by a Resolution duly adopted on April 28, 2004 (after the due holding of a public hearing thereon) (the "Authorizing Resolution"). This Bond is being issued to provide funds to the County to: (i) acquire, construct, reconstruct, expand, and equip wastewater system facilities located in the County, including but not limited to the Lakewood Sewer Project – Phase I; (ii) refinance the outstanding amount of the County's revenue bonds issued to the Virginia Water Facilities Revolving Fund on August 14, 1992, in the original principal amount of \$543,379; and (iii) pay issuance expenses in connection with the Bonds.

This Bond shall be a revenue bond of the County for the payment of principal and interest on which the revenues of the wastewater system of the County (the "System") shall be pledged, subject to the County's right to apply the revenues to the payment of operation and maintenance expenses of the System. Such pledge of the revenues shall be valid and binding from and after the date of delivery of this Bond. Further, the revenues, as received by the County, shall immediately be subject to the lien of this pledge without any physical delivery of them or further act, and the lien of this pledge shall have priority over all other obligations and liabilities of the County payable from such revenues, and shall be valid and binding against all parties having claims of any kind against the County regardless of whether such parties have notice of such pledge.

THIS BOND, THE PREMIUM, IF ANY, AND THE INTEREST THEREON ARE LIMITED OBLIGATIONS OF THE COUNTY PAYABLE SOLELY FROM REVENUES OF THE SYSTEM, SUBJECT TO THE RIGHT OF THE COUNTY TO APPLY REVENUES TO THE PAYMENT OF

OPERATION AND MAINTENANCE EXPENSES, WHICH REVENUES HAVE BEEN PLEDGED AND ASSIGNED TO SECURE PAYMENT HEREOF. THIS BOND, THE PREMIUM, IF ANY, AND THE INTEREST THEREON (INCLUDING SUPPLEMENTAL INTEREST AS DESCRIBED HEREIN) SHALL NOT BE DEEMED TO CONSTITUTE A GENERAL OBLIGATION DEBT OR A PLEDGE OF THE FULL FAITH AND CREDIT OF THE COMMONWEALTH OF VIRGINIA OR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE COUNTY. NEITHER THE COMMONWEALTH OF VIRGINIA NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE COUNTY, SHALL BE OBLIGATED TO PAY THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST (INCLUDING SUPPLEMENTAL INTEREST) ON THIS BOND OR OTHER COSTS RELATED THERETO EXCEPT FROM THE REVENUES OF THE SYSTEM PLEDGED THEREFOR, SUBJECT TO THE RIGHT OF THE COUNTY TO APPLY SUCH REVENUES TO THE PAYMENT OF OPERATION AND MAINTENANCE EXPENSES AS DESCRIBED IN THE FINANCING AGREEMENT. NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF THE COMMONWEALTH OF VIRGINIA, NOR ANY POLITICAL SUBDIVISION THEREOF, INCLUDING THE COUNTY, IS PLEDGED TO THE PAYMENT OF THE PRINCIPAL OF OR PREMIUM, IF ANY, OR INTEREST (INCLUDING SUPPLEMENTAL INTEREST) ON THIS BOND OR OTHER COSTS RELATED THERETO.

This Bond is issued pursuant to the terms of the Authorizing Resolution, the Financing Agreement, and the Constitution and statutes of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2 of the Code of Virginia of 1950, as amended. The obligations of the County under this Bond shall terminate when all amounts due and to become due pursuant to this Bond and the Financing Agreement have been paid in full.

This Bond is subject to defeasance, prepayment or redemption and refunding in accordance with the terms of the Financing Agreement.

If an Event of Default (as defined in the Financing Agreement) occurs, the principal of this Bond may be declared immediately due and payable by the registered owner of this Bond by written notice to the County.

This Bond may be transferred only by an assignment duly executed by the registered owner hereof or such owner's attorney or legal representative in form satisfactory to the County Clerk, as Registrar. Such transfer shall be made in the registration books kept by the County Treasurer, as Registrar, upon presentation and surrender thereof.

It is hereby certified and recited that all acts, conditions and things required by the Constitution and statutes of the Commonwealth of Virginia to happen, exist or be performed precedent to the issuance of this Bond have happened, exist or been performed in due time, form and manner as so required, and that the indebtedness evidenced by this Bond is within every debt and other limit prescribed by the Constitution and statutes of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the Chairman of the Board of Supervisors of Rockingham County, Virginia, has caused this Bond to be executed and delivered on behalf of the County, as attested by the Clerk of the Board of Supervisors, the County's seal has been affixed hereto, and this Bond is dated the Dated Date, all as set forth in the Financing Agreement.

[Seal]

COUNTY OF ROCKINHAM, VIRGINIA

By: _____
Chairman, Board of Supervisors

ATTEST:

Clerk of Board of Supervisors
Rockingham County, Virginia

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE OF ASSIGNEE.)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE: _____

the within Bond and does hereby irrevocably constitute and appoint _____, attorney, to transfer said Bonds on the books kept for registration of said Bond, with full power of substitution in the premises.

Dated:_____

Signature Guaranteed:

(NOTICE: Signature(s) must be guaranteed by an Eligible Guarantor Institution such as a Commercial Bank, Trust Company, Securities Broker/Dealer, Credit Union or Savings Association which is a Registered Owner (Notice: The signature above must correspond with the name of the Registered Owner as it appears on the books kept for registration of the Bond in every particular, without alteration or change.)

member of a medallion program
approved by The Securities
Association, Inc.)

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**PUBLIC HEARING - INTENT TO DECLARE AS SURPLUS AND DISPOSE OF
LOT 9A AS SHOWN ON “REVISED PLAT FOR CULLISON CREEK
SUBDIVISION.”**

At 7:46 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the County’s intent to declare as surplus and dispose of Lot 9A as shown on “REVISED PLAT FOR CULLISON CREEK SUBDIVISION” prepared by Blackwell Engineering, recorded in Deed Book 1573, Page 012. Rockingham County obtained interest in the above-referenced lot pursuant to the recordation of the Cullison Creek Subdivision Plat in Deed Book 1557, Page 617, revised in Deed Book 1573, Page 012.

County Attorney Brown advised that the County did not pay for the lot. He recommended that the Board declare the property as surplus and authorize a quit claim deed to give back to the previous owner any interest the County may have in the property.

There were no requests to speak on this matter.

Chairman Ahrend closed the public hearing and called the regular session back to order at 8:10 p.m.

On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board declared the property as surplus and authorized a quit claim deed to give back to the previous owner any interest the County may have in the property.

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RECESS.

Chairman Ahrend declared the meeting recessed at 7:49 for Special Meeting of the Countryside Sanitary District.

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CALL TO ORDER.

Chairman Ahrend called the meeting back to order at 7:52 p.m.

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COMMITTEE REPORTS.

The Board heard Committee reports by Board members and staff.

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee and as requested by the Social Services Director, approved a supplemental appropriation in the amount of \$72,798 to GL Code: 220-05302-100-5705-000 (Aid to Families with Dependent Children - Foster Care) for foster care (State funded, no local match).

On motion by Supervisor Cuevas, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee

and as requested by the Circuit Court Clerk, the Board approved a supplemental appropriation of \$1,424 to GL Code: 001-02106-000-6065-000 (Minor Equipment) to build and install a counter/divider in the Criminal Section of the Circuit Court Clerk's Office (funding from Excess Fees-Clerk).

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee and as requested by the Sheriff, the Board approved a supplemental appropriation of \$9,068 to GL Code: 001-03102-000-8005-000 (Vehicles) for 2004 vehicle to replace a 2001 Ford Crown Victoria destroyed in an accident (funding to come from General Fund Reserve).

On motion by Supervisor Cuevas, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Public Works Committee, the Board:

Awarded a contract for the Lakewood Sewer Project Phase 1 to Mid State Construction Company in the amount of \$1,032,702.

Awarded a contract for Phase III Landfill design and permitting to Draper Aden in the amount of \$363,000.

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CLOSED MEETING.

On motion by Supervisor Floyd , seconded by Supervisor Breeden and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 8:00 to 8:45 p.m. to discuss economic development and the sale of real property, as set forth by Virginia Code Section 2.2-3771(A)(5) and 3).

At 8:44 p.m., Chairman Ahrend called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR FLOYD RESOLUTION NO: X04-04
SECOND: SUPERVISOR BREEDEN MEETING DATE: APRIL 28, 2004

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:
AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER
NAYS: NONE
ABSENT: NONE

Dottie L. Bowen, Deputy Clerk

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ADJOURNMENT.

By consensus, the Board adjourned the meeting at 8:46 p.m.

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Chairman